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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA, : CASE NO. 1:18-cr-0043
:
Plaintiff, :
vs. : JURY TRIAL
:
YANJUN XU, also known as XU : 25th of OCTOBER, 2021
YANJUN, also known as QU HUI, : 9:30 A.M.
also known as ZHANG HUI, :
:
Defendant. :
:
- - -

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE
UNITED STATES DISTRICT JUDGE
- - -

APPEARANCES:

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Also present: Mae Harmon, Interpreter
Robin Murphy, Interpreter
Yanjun Xu, Defendant

Law Clerk: Cristina V. Frankian, Esq.

Courtroom Deputy: Rebecca Santoro

Stenographer: Mary Schweinhagen, RPR, RMR, RDR, CRR
United States District Court
200 West Second Street, Room 910
Dayton, Ohio 45402

Proceedings reported by mechanical stenography,
transcript produced by computer.

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INDEX OF WITNESSES

MONDAY, OCTOBER 25, 2021

DIRECT CROSS REDIRECT RECROSS

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1 P-R-O-C-E-E-D-I-N-G-S 9:40 A.M.

09:40:48 2 (In open court outside the presence of the jury.)

09:40:48 3 THE COURT: We're back in the open courtroom on the
09:40:51 4 record outside the presence the jury. United States versus
09:41:00 5 Xu.

09:41:01 6 The prosecution team is present. Is your representative
09:41:05 7 here?

09:41:06 8 MS. GLATFELTER: Yes, we are, Your Honor. Thank
09:41:08 9 you.

09:41:08 10 THE COURT: Is your representative here?

09:41:13 11 AGENT PAUL: Yes, Your Honor.

09:41:14 12 THE COURT: Oh, there you are.

09:41:15 13 Defense team is here in full. Defendant's here. The
09:41:19 14 Court interpreter is here and present.

09:41:24 15 Is your interpreter here, defense?

09:41:30 16 Okay. We have got two interpreters present in the
09:41:33 17 courtroom.

09:41:35 18 I'm going to swear the interpreter who is present in the
09:41:39 19 courtroom for the first time.

09:41:41 20 Mary, would you take the oath.

09:41:43 21 Do you solemnly swear or affirm that you will correctly
09:41:47 22 interpret these proceedings today? Will you?

09:41:53 23 THE INTERPRETER: Yes, I do, Your Honor.

09:41:54 24 THE COURT: Thank you.

09:41:56 25 It's my understanding that the defendant has indicated he

09:42:01 1 doesn't need word-for-word translation.

09:42:20 2 THE INTERPRETER: No, Your Honor.

09:42:21 3 THE COURT: Counsel, if you'd tell me what's going
09:42:23 4 on?

09:42:24 5 MR. McBRIDE: Yes, I believe you are correct, Your
09:42:26 6 Honor, that Xu does not need word-for-word translation.

09:42:32 7 THE COURT: If that changes, I want to be made aware
09:42:35 8 of that so we can act appropriately. I need the defendant to
09:42:40 9 tell me he doesn't need word for word and he is comfortable
09:42:43 10 with the way we propose to proceed.

09:42:52 11 MR. McBRIDE: Yes, Your Honor.

09:43:03 12 THE DEFENDANT: (In English) Okay. No problem.

09:43:08 13 THE COURT: Did I hear, "Okay. I'm fine"? What did
09:43:11 14 I hear? I need to hear from the defendant --

09:43:13 15 THE DEFENDANT: (In English) Yes.

09:43:14 16 THE COURT: -- whether he's comfortable not having
09:43:17 17 word-for-word interpretation.

09:43:20 18 THE DEFENDANT: (In English) Yes.

09:43:21 19 THE COURT: If that changes, I want him to tell me.

09:43:30 20 MR. McBRIDE: Yes, Your Honor.

09:43:31 21 THE COURT: And someone just told him that, right?

09:43:34 22 MR. McBRIDE: Yes, Your Honor.

09:43:37 23 THE COURT: I don't have a lot of comfort. I think
09:43:39 24 this should be word for word.

09:44:03 25 MR. McBRIDE: Mr. Xu says he's fine with word for

09:44:06 1 word.

09:44:07 2 THE COURT: Very well. If it doesn't need to be
09:44:08 3 that way down the road, he can tell his interpreter. We are
09:44:13 4 going to start with word by word.

09:44:16 5 MR. McBRIDE: Very well, Your Honor.

09:44:17 6 THE COURT: Acceptable, Ms. Murphy?

09:44:20 7 THE INTERPRETER: Yes, Your Honor.

09:44:20 8 THE COURT: Very well. We have a new court reporter
09:44:23 9 this week, Mary Schweinhagen.

09:44:26 10 And I understand you wish to address the Court before we
09:44:29 11 get the jury. The government wish to be heard on a motion
09:44:33 12 perhaps?

09:44:35 13 MR. MANGAN: Yes, Your Honor. We submitted a motion
09:44:38 14 last night regarding issues that the defense has raised
09:44:43 15 related to what we're calling the Safran issue. In
09:44:46 16 particular, this came up both during opening and the
09:44:49 17 examination of a witness in which they suggested two different
09:44:54 18 things: One would be that it was improper to consider the
09:44:58 19 Safran information because he was not indicted in a separate
09:45:02 20 proceeding that is going on in California; and, secondly, that
09:45:06 21 the Safran incident was not specifically listed or enumerated
09:45:12 22 in the extradition materials.

09:45:16 23 We believe those are both legal issues that have been
09:45:18 24 previously submitted by the defense through various motions
09:45:21 25 and that had been resolved. We don't think they are

09:45:24 1 appropriate for subjects of cross-examination or argument to
09:45:27 2 the jury.

09:45:29 3 THE COURT: Very well. Does the defense wish to be
09:45:31 4 heard?

09:45:33 5 MR. McBRIDE: Yes, Your Honor. I think, first, the
09:45:35 6 government misconstrues at least one of our arguments. We are
09:45:39 7 not arguing that the Safran evidence should not be considered,
09:45:44 8 but we believe that the issue of the other indictment goes to
09:45:50 9 the weight of that evidence, and the jury is perfectly
09:45:53 10 entitled to consider the investigation in this case and what
09:45:59 11 happened with the information, both the evidence here and
09:46:04 12 other evidence that was submitted to the Southern District of
09:46:08 13 California by the government.

09:46:15 14 I would argue, Judge, that it's a basic constitutional
09:46:18 15 right of the defendant to confront the witnesses in this case,
09:46:25 16 including the government's witnesses, and particularly case
09:46:29 17 agents that they submit on particular issues.

09:46:34 18 The government has argued vociferously, and won the
09:46:42 19 argument before this Court, that the Safran evidence is part
09:46:47 20 of the conspiracy in this case. Now what they are asking the
09:46:52 21 Court to do is to limit the defendant's ability to test that
09:46:58 22 evidence and to test the validity of the investigation in this
09:47:05 23 case.

09:47:08 24 The government in its motion alludes to the role that the
09:47:12 25 defendant played in how he has identified in that indictment.

09:47:18 1 That's fine, Your Honor. It's an admission that he is, in
09:47:22 2 fact, involved in the other case. I would submit that the
09:47:27 3 reason he is not indicted in that case is because of the rule
09:47:32 4 of specialty that would clearly be a violation of the treaty
09:47:37 5 for extradition between the United States and Belgium.

09:47:45 6 The government cites a couple of cases for the
09:47:49 7 proposition that nonindictments in other cases are irrelevant
09:48:00 8 because there are lots of potential explanations for the
09:48:03 9 government's charging decisions. That's true enough, but we
09:48:07 10 ought to be allowed to ask which of those reasons apply here,
09:48:12 11 not the least because the answer to that question has real
09:48:15 12 consequences.

09:48:19 13 The government also cites the *Bingham* and *Benson* cases
09:48:23 14 for the proposition the defendant cannot point to indictments
09:48:27 15 related to cases to show he is not guilty of the offense.
09:48:31 16 That is not what we are trying to do here. The indictments --
09:48:38 17 the government is introducing this indictment of other crimes
09:48:43 18 claiming they are part of this case, and we're merely asking
09:48:46 19 for the opportunity to paint the rest of the picture, Judge.

09:48:54 20 The government's basic argument throughout the case is
09:49:09 21 that Xu, of course, is guilty, but they are trying to skirt
09:49:03 22 their own evidence. And let me explain that, Judge. One of
09:49:12 23 my mentors a long time ago, an old country lawyer, used to
09:49:16 24 cite the goose/gander rule: What's good for the goose is good
09:49:21 25 for the gander. Here, the government is refusing to accept

09:49:24 1 that the consequences of its own evidence that this Court said
09:49:27 2 they can use. That is inherently unfair. And because of
09:49:31 3 that, that's why the government backs to the Rule 403 that
09:49:38 4 it's unfairly prejudicial. What I used to say of the
09:49:42 5 government lawyer is: Of course, Your Honor, it's
09:49:45 6 prejudicial, but it's not unfairly prejudicial. I'm going to
09:49:48 7 say the same thing here in defense of Mr. Xu. Of course the
09:49:53 8 cross-examination is going to produce prejudicial information.
09:49:58 9 It is not going to unfairly prejudice the government, who has
09:50:02 10 embraced this evidence.

09:50:03 11 If you look in the government's memorandum, they don't
09:50:10 12 give you any reason, Judge, why it's unfairly prejudicial.
09:50:15 13 And for those reasons, the government -- the defense believes
09:50:19 14 we should be able to explore the investigation, what happened
09:50:24 15 with the evidence, because it illustrates our point that this
09:50:30 16 is not an important part of the conspiracy to defraud GE.

09:50:41 17 Thank you, Judge.

09:50:43 18 THE COURT: Very well. The Court's ready to act.

09:50:47 19 Does the government need to be heard further?

09:50:51 20 MR. McKENZIE: The only thing I was going to add,
09:50:53 21 Your Honor, was that we are not talking about testing the
09:50:55 22 evidence. We're challenging charging decisions, which the
09:51:02 23 agents don't make, the witnesses don't make. And so injecting
09:51:04 24 that into the examination, it's impossible for them to
09:51:09 25 respond.

09:51:09 1 It's basically a legal argument that is impossible for us
09:51:12 2 to respond to. That's our problem. That's why we believe
09:51:16 3 it's unfairly prejudicial.

09:51:19 4 THE COURT: Very well. I've ruled on this
09:51:23 5 previously. The current United States motion to exclude
09:51:28 6 evidence is granted. The Court precludes any reference in
09:51:40 7 questioning, in argument, any information related to the fact
09:51:43 8 that the Xu defendant was not charged in the Southern District
09:51:50 9 of California and not all the trial evidence was included in
09:51:54 10 the extradition request. Both are irrelevant and misleading.
09:51:58 11 Arguing that the Southern District of California would have
09:52:01 12 indicted him if there was sufficient evidence is not a valid
09:52:08 13 argument. The charging decision in federal court is a
09:52:11 14 question of discretion. The prosecutor from the Southern
09:52:17 15 District of California is not on the stand.

09:52:18 16 And in any event, what the prosecutor decided to do or
09:52:22 17 not do in the Southern District of California is not relevant
09:52:26 18 to the charges here in the Ohio Southern District. If the
09:52:31 19 evidence is insufficient related to Safran, then the defense
09:52:35 20 is welcome to raise that, but they cannot do so by second-
09:52:42 21 guessing or making assumptions related to another district's
09:52:45 22 prosecutor's decision. Prejudice is not even at issue because
09:52:49 23 the argument is patently irrelevant.

09:52:55 24 I will instruct jurors regarding the Southern District of
09:52:59 25 California being irrelevant if necessary.

09:53:01 1 The Court's ruling is clear and the parties will abide by
09:53:05 2 it.

09:53:07 3 Are we ready for the jury from the government's
09:53:10 4 perspective?

09:53:11 5 MR. MCKENZIE: Yes, Your Honor.

09:53:12 6 THE COURT: From the defense?

09:53:13 7 MR. McBRIDE: Yes, Your Honor.

09:53:14 8 THE COURT: Let's call for the jury.

09:54:34 9 (Jury in at 9:54 a.m.)

09:54:40 10 THE COURT: You may all be seated. The 15 jurors
09:54:43 11 have rejoined us in the courtroom.

09:54:45 12 I've kept you waiting again. Good morning. We are going
09:54:50 13 to continue with the testimony of the witness on the stand who
09:54:53 14 remains under oath. Now it's defense counsel's opportunity to
09:55:00 15 cross-examine the witness.

09:55:01 16 We are going to be going in chunks again of about 30
09:55:04 17 minutes.

09:55:08 18 The defense may proceed to cross-examination.

09:55:11 19 MR. McBRIDE: Thank you, Your Honor.

09:55:12 20 THE COURT: Very well.

09:55:24 21 MR. McBRIDE: Judge, may I remove my mask?

09:55:26 22 THE COURT: Yes.

09:55:27 23 MR. McBRIDE: Thank you.

09:55:34 24 THE COURT: For purpose of the court reporter,
09:55:36 25 please state your name, and would you spell names because this

CROSS - HULL (McBride)

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09:55:39 1 is her first time in the room on this.

09:55:41 2 MR. McBRIDE: Yes, Your Honor.

09:55:42 3 THE COURT: Thank you.

09:55:42 4 **BRADLEY HULL, PLAINTIFF WITNESS, PREVIOUSLY SWORN**

09:55:43 5 **CROSS-EXAMINATION**

09:55:43 6 BY MR. McBRIDE:

09:55:44 7 **Q.** Good morning, Agent Hull. My name is Bob McBride.

09:55:47 8 MR. McBRIDE: For the court reporter, I will spell
09:55:49 9 my last name. M-C-capital-B-R-I-D-E.

09:56:02 10 BY MR. McBRIDE:

09:56:02 11 **Q.** Agent Hull, I know that you are a Supervisory Special
09:56:07 12 Agent, but do you mind if I just refer to you as Special Agent
09:56:10 13 Hull for the purposes of simplicity today?

09:56:13 14 **A.** That's fine.

09:56:14 15 **Q.** Okay. Thank you. Also, I promise you I will not keep
09:56:18 16 you on the stand over three days. Okay?

09:56:25 17 THE COURT: That was a joke; is that right?

09:56:27 18 MR. McBRIDE: It was. My poor attempt at humor.

09:56:28 19 THE COURT: Ho-ho-ho. I just wanted to be clear.

09:56:36 20 BY MR. McBRIDE:

09:56:37 21 **Q.** Also, if I ask a question you don't understand or I've
09:56:41 22 been unclear, please tell me so, and I'll try to ask you a
09:56:44 23 better question, okay?

09:56:46 24 **A.** Okay.

09:56:50 25 **Q.** I'd like to start off where we left on Friday, which is

HULL - CROSS (McBride)

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09:56:58 1 with the pictures that were shown to the jury that Mr. Heng
09:57:06 2 had on his cell phone.

09:57:11 3 I believe that you opined that Mr. Heng and Mr. Xu had
09:57:18 4 these photographs in case Dr. Zheng did not cooperate; is that
09:57:25 5 correct?

09:57:25 6 A. Yes.

09:57:28 7 Q. And the implication was that they would somehow threaten
09:57:33 8 them, threaten Dr. Zheng with these photographs; is that
09:57:37 9 correct?

09:57:37 10 A. Yes.

09:57:38 11 Q. All right. I'd like to explore that opinion.

09:57:45 12 MR. McBRIDE: Your Honor, may I publish to the jury
09:57:48 13 Government's Exhibit 6g, which is already admitted into
09:57:50 14 evidence?

09:57:51 15 THE COURT: Yes.

09:57:52 16 MR. McBRIDE: Thank you.

09:57:52 17 THE COURT: Give us a moment.

09:57:54 18 MR. McBRIDE: May I approach the jury, Your Honor,
09:57:57 19 and the witness?

09:57:58 20 THE COURT: You are going to approach the witness?

09:58:01 21 MR. McBRIDE: The jury and the witness, just hand
09:58:03 22 them these documents.

09:58:04 23 THE COURT: Yes. 6g is on the screen.

09:58:08 24 MR. McBRIDE: Oh, g is on the screen?

09:58:10 25 THE COURT: You asked to publish it?

HULL - CROSS (McBride)

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09:58:13 1 MR. McBRIDE: Yes, Your Honor.

09:58:13 2 THE COURT: The jury can see it on the screen.

09:58:15 3 MR. McBRIDE: And it's 8g. I'm sorry.

09:58:18 4 THE COURT: You want 8g?

09:58:20 5 MR. McBRIDE: 8g, Judge.

09:58:26 6 THE COURT: We will get 8g up momentarily.

09:58:29 7 They are on the screen. Do you want them to have paper

09:58:33 8 copies?

09:58:33 9 MR. McBRIDE: No, Your Honor. I was going to hand

09:58:35 10 them out because the government did before.

09:58:37 11 THE COURT: If you wish to, you may.

09:58:40 12 MR. McBRIDE: That's quite all right, as long as the

09:58:42 13 jury can see these. Thank you, Judge.

09:58:44 14 BY MR. McBRIDE:

09:58:45 15 **Q.** And, Agent Hull, you can see that 8g on the screen, that

09:58:48 16 first page?

09:58:50 17 THE COURT: I have got hands up from the jurors.

09:58:54 18 MR. MANGAN: May I ask, is this visible to the

09:58:57 19 gallery?

09:58:58 20 THE COURT: It is not visible to the gallery.

09:59:03 21 Would you accommodate me and let me reverse course and

09:59:06 22 ask you to present the photographs in hard copy to the jurors?

09:59:10 23 MR. McBRIDE: Absolutely, Your Honor.

09:59:26 24 May I first hand one to the agent?

09:59:30 25 THE COURT: Yes.

HULL - CROSS (McBride)

15

10:00:07 1 BY MR. McBRIDE:

10:00:08 2 Q. Agent Hull, I saw you looking at all the photographs.

10:00:10 3 Are they all there for Exhibit 8g?

10:00:13 4 A. Those that were provided by the government, yes.

10:00:16 5 Q. Thank you.

10:00:17 6 THE COURT: Let me pause and make sure the jurors
10:00:19 7 have copies. Is there a juror who does not have a copy?

10:00:24 8 THE JUROR: Three of us.

10:00:25 9 THE COURT: There are a bunch in the back row and
10:00:27 10 some in the front.

10:00:29 11 I would ask you to share, but the three of you in the
10:00:32 12 front left are going to need at least one copy.

10:00:35 13 Is there any juror who is not able to see the packet of
10:00:38 14 photographs?

10:00:39 15 I see no hands.

10:00:41 16 You may proceed, Mr. McBride.

10:00:44 17 MR. McBRIDE: Thank you, Your Honor.

10:00:46 18 BY MR. McBRIDE:

10:00:46 19 Q. So, Agent, I think you testified when you are discussing
10:00:49 20 these exhibits that Mr. Heng got them off of WeChat; is that
10:00:56 21 correct?

10:00:56 22 A. WeChat and QQ, to our understanding.

10:01:00 23 Q. QQ is an earlier version of WeChat, is it not?

10:01:03 24 A. It's a different application.

10:01:05 25 Q. Both operated by Tenent, correct?

10:01:09 1 A. Tencent.

10:01:11 2 Q. Tencent, thank you.

10:01:16 3 So I'm curious, if Mr. -- or Dr. Zheng put these on

10:01:23 4 WeChat, how they could be used as a threat. So we're going to

10:01:32 5 talk about that.

10:01:34 6 So WeChat and QQ have what, about -- do you know whether

10:01:38 7 it has -- what? About a billion subscribers, do you think

10:01:44 8 that's about right?

10:01:45 9 A. I could believe that, yes.

10:01:49 10 Q. Okay. And you also testified earlier that it was a lot

10:01:49 11 like Facebook where you could download pictures; is that

10:01:53 12 correct?

10:01:53 13 A. You can upload pictures, yes.

10:01:55 14 Q. Upload pictures, okay. And they can also be downloaded,

10:01:59 15 correct?

10:01:59 16 A. I'm not familiar with that part.

10:02:01 17 Q. Okay. That's fair. But with WeChat and QQ, you can

10:02:06 18 download pictures, correct?

10:02:07 19 A. Again, you can upload. I'm familiar with that portion

10:02:11 20 of it. I am not familiar with the download portion of it.

10:02:13 21 Q. So you don't know whether or not they could be

10:02:15 22 downloaded?

10:02:16 23 A. Well, they clearly can because they were in the MSS's

10:02:20 24 possession.

10:02:21 25 Q. Fair enough. So Dr. Zheng published these pictures on an

10:02:28 1 application that about a billion people subscribe to; is that
10:02:32 2 right?

10:02:32 3 A. Again, a billion possibly, yes.

10:02:37 4 Q. And, of course, WeChat and QQ are heavily used in China,
10:02:41 5 correct?

10:02:41 6 A. Yes.

10:02:42 7 Q. They are, of course, Chinese applications?

10:02:45 8 A. They are.

10:02:45 9 Q. And as you testified, they are applications that have
10:02:51 10 additions to them other than Facebook, correct?

10:02:54 11 A. Yes.

10:02:54 12 Q. Things like you can pay bills with it, correct?

10:02:59 13 A. Yes.

10:02:59 14 Q. And you can chat with multiple people in the same stream,
10:03:03 15 correct?

10:03:03 16 A. Yes.

10:03:04 17 Q. All right. Very good. So I'm curious about these
10:03:08 18 pictures and why they're a threat, and so I would like to look
10:03:12 19 at them, all right?

10:03:15 20 Let's first turn to Government Exhibit 8g, page 1. Let's
10:03:24 21 look to the left of that image. Do you see anyone in
10:03:32 22 Dr. Zheng's family in that image?

10:03:36 23 A. I do not.

10:03:38 24 Q. That's sort of an image of somebody watching some sort of
10:03:43 25 event or at some sort of picnic or something like that?

HULL - CROSS (McBride)

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10:03:48 1 A. I believe it's Voice of America Park in Mason.

10:03:51 2 Q. Say again, please.

10:03:52 3 A. I believe it's Voice of America Park in Mason.

10:03:55 4 Q. Very good. Thank you. And then the picture on the
10:03:58 5 right, I think you testified, is a picture of Dr. Zheng's
10:04:03 6 garden, correct?

10:04:03 7 A. I believe it is, yes.

10:04:04 8 Q. Are they going to threaten Dr. Zheng because they have a
10:04:09 9 picture of his garden?

10:04:10 10 A. Well, these are a collection of more than 200 images
10:04:17 11 that were brought to the meeting by the MSS. So speaking to
10:04:21 12 one of these individual images is a bit disingenuous.

10:04:26 13 Q. Well, I assume that the government picked out the most
10:04:30 14 salacious -- or pardon me -- damaging -- let me strike that.
10:04:35 15 I suppose the government picked out the best examples to put
10:04:38 16 in this compilation exhibit of what could be used to leverage
10:04:42 17 Dr. Zheng; is that fair?

10:04:45 18 A. No.

10:04:46 19 Q. Why isn't it fair?

10:04:47 20 A. They were selected so they would be an example. And if
10:04:53 21 you go further into the packet --

10:04:56 22 Q. Agent, I'm not asking any questions about going further
10:05:00 23 in the packet, although we will.

10:05:03 24 So you're telling me that the government isn't picking
10:05:06 25 out the best examples of photographs that can be used to

10:05:10 1 leverage Dr. Zheng to support your opinion. Is that what
10:05:13 2 you're telling me?

10:05:14 3 A. They're a selection.

10:05:16 4 Q. That's not an answer to my question. Are you telling me
10:05:19 5 that the government did not pick out the best examples of
10:05:23 6 photographs that could be used to leverage Dr. Zheng? Yes or
10:05:29 7 no.

10:05:29 8 A. They are a selection of photographs selected by the
10:05:32 9 government as examples in the total collection.

10:05:35 10 Q. So I will take that as a "no."

10:05:41 11 Let's look to Exhibit Number 2. I'm sorry. Page number
10:05:48 12 2.

10:05:55 13 These photographs appear to be a copy or pictures of
10:05:58 14 Dr. Zheng on vacation, do they not?

10:06:01 15 A. They do.

10:06:01 16 Q. And so the MSS is going to threaten Dr. Zheng because
10:06:07 17 he's on vacation; is that right?

10:06:11 18 A. I think it shows that they took their time to learn
10:06:17 19 about their target.

10:06:19 20 Q. Well, what do you base that opinion on? You weren't
10:06:23 21 there when these pictures were downloaded, were you?

10:06:26 22 A. I was not.

10:06:26 23 Q. And you don't know these people personally, do you?

10:06:30 24 A. Whom?

10:06:32 25 Q. Xu or Heng?

10:06:37 1 A. I do not know them personally, no.

10:06:40 2 Q. In fact, you never even interviewed either of these two

10:06:43 3 gentlemen, did you?

10:06:43 4 A. Your defendant would not speak with us. Your client,

10:06:46 5 rather. Excuse me.

10:06:46 6 Q. Well, that's his constitutional right, is it not?

10:06:50 7 A. Absolutely.

10:06:50 8 Q. So you are attacking him for exercising his

10:06:54 9 constitutional right?

10:06:55 10 A. I am not.

10:06:56 11 Q. Because, of course, you are an officer of the United

10:06:58 12 States, correct?

10:06:59 13 A. I am.

10:06:59 14 Q. So back to my question. MSS is going to threaten

10:07:05 15 Dr. Zheng because he went on vacation. Is that what you're

10:07:09 16 telling this jury?

10:07:10 17 A. No. I'm saying -- I'm simply indicating the presence

10:07:14 18 of over 200 images brought to a meeting in a foreign country

10:07:20 19 could be used as a means for coercion.

10:07:25 20 Q. Could be. And that's why we're exploring this question.

10:07:29 21 I don't understand how they could be since these are the

10:07:34 22 government's selection of photographs, are they not?

10:07:37 23 A. Yes.

10:07:39 24 Q. All right. Let's move to Exhibit -- or page number 3.

10:07:45 25 I believe on the left-hand side we have a picture of

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10:07:50 1 somebody shoveling snow. Do you know who that is?

10:07:54 2 A. I do not.

10:07:55 3 Q. All right. You don't know whether it's Dr. Zheng, do

10:07:58 4 you?

10:07:58 5 A. I do not.

10:07:59 6 Q. Because you can't see that person's face, can you?

10:08:01 7 A. No.

10:08:04 8 Q. All right. And then on the right, we have two kids in

10:08:07 9 winter jackets, correct?

10:08:08 10 A. Yes.

10:08:09 11 Q. All right.

10:08:13 12 A. They appear to be trick-or-treating.

10:08:16 13 Q. Yes, they do.

10:08:17 14 So you're assuming these are Dr. Zheng's kids?

10:08:20 15 A. I know they are not.

10:08:21 16 Q. You know they are not Dr. Zheng's kids?

10:08:26 17 A. I do.

10:08:27 18 Q. So I really don't see the threat value here of Government

10:08:32 19 Exhibit Number -- or page number 3. Do you?

10:08:37 20 A. Again, it's a collection of images that the MSS brought

10:08:44 21 to a meeting.

10:08:46 22 Q. And a collection of images the government put in a

10:08:49 23 composite exhibit to show the dangerous exhibits that could be

10:08:53 24 used to leverage Dr. Zheng, correct?

10:08:55 25 A. Yes.

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10:08:57 1 Q. But that -- those two particular images don't have
10:09:03 2 anything to do with Dr. Zheng, do they?
10:09:05 3 A. The one on the right is outside his home.
10:09:09 4 Q. Well, you don't know who's shoveling snow outside his
10:09:13 5 home, do you?
10:09:13 6 A. That would be the one on the left. I said the one on
10:09:16 7 the right.
10:09:16 8 Q. My apologies. Have you been to Dr. Zheng's home?
10:09:20 9 A. I have.
10:09:21 10 Q. So you surveilled Dr. Zheng's home?
10:09:25 11 A. Yes.
10:09:25 12 Q. Okay. But you don't know who those kids are?
10:09:28 13 A. I do not.
10:09:29 14 Q. So they are going to threaten Dr. Zheng with pictures of
10:09:34 15 primroses and a pathway in his front yard?
10:09:37 16 A. Potentially.
10:09:38 17 Q. Why? You were able to surveil him there. You didn't
10:09:44 18 threaten him, did you?
10:09:45 19 A. No, I did not.
10:09:46 20 Q. So I assume it's because the MSS can show they know where
10:09:50 21 he lives. Is that what you're saying?
10:09:52 22 A. That would be a fair conclusion.
10:09:54 23 Q. Well, where he lives is a matter of public information,
10:09:58 24 is it not?
10:09:58 25 A. Inside the United States it is.

10:10:01 1 Q. You're telling me that you can't get on the Internet and
10:10:04 2 find Dr. Zheng's address?
10:10:07 3 A. You could.
10:10:07 4 Q. Are you telling me that you can't get on the Internet and
10:10:11 5 see the Google images of his house?
10:10:16 6 A. You can.
10:10:17 7 Q. Okay. And so if MSS is such an elite spy organization,
10:10:22 8 you figure they can do that too, right?
10:10:24 9 A. Yes.
10:10:24 10 Q. Okay. Let's turn to page 4.
10:10:35 11 The image on the left appears to be Dr. Zheng at the
10:10:41 12 Flying Pig, correct?
10:10:43 13 A. It appears so, yes.
10:10:44 14 Q. Do you know how many people participate in the Flying
10:10:47 15 Pig?
10:10:47 16 A. I do not.
10:10:48 17 Q. Do you ever run it?
10:10:52 18 A. No.
10:10:52 19 Q. And the image on the right appears to be Dr. Zheng
10:10:56 20 standing in front of one of our bridges at the Ohio River; is
10:10:59 21 that correct?
10:10:59 22 A. Yes. My recollection, this was a game day for GE
10:11:03 23 employees.
10:11:04 24 Q. Okay. So the MSS is going to threaten him because he ran
10:11:08 25 the Flying Pig, right?

10:11:13 1 A. No.

10:11:14 2 Q. Is that what you are telling us?

10:11:15 3 A. No. Again, it's the totality of the images.

10:11:18 4 Q. I understand that. But these are the selection the
10:11:20 5 government picked out, correct?

10:11:22 6 A. They are a selection, yes.

10:11:24 7 Q. And these are the ones the government is representing to
10:11:27 8 the jury are the most important images for the sake of
10:11:38 9 leveraging Dr. Zheng; is that correct?

10:11:39 10 A. They are examples.

10:11:40 11 Q. So I will take that as a "yes," Agent.
10:11:46 12 Let's turn to page 5.
10:11:52 13 Would you agree with me that the image on the left is
10:11:55 14 Dr. Zheng having finished the Flying Pig?

10:12:00 15 A. Based on the memo, I would agree, yes.

10:12:04 16 Q. And in the middle there is Dr. Zheng in a park somewhere.
10:12:09 17 Do you know that location?

10:12:11 18 A. I do not.

10:12:11 19 Q. And on the right we have Dr. Zheng in a river. Do you
10:12:15 20 know what that location is?

10:12:17 21 A. I remember asking about it once, but I don't remember
10:12:20 22 precisely at this moment, no.

10:12:22 23 Q. So it's somewhere in the area, Little Miami or somewhere
10:12:25 24 like that; is that correct?

10:12:26 25 A. I really don't remember.

10:12:27 1 Q. Okay. That's fair. And so these images of Dr. Zheng
10:12:31 2 doing certain leisure activities, the MSS is going to leverage
10:12:38 3 these again him. Is that what you are telling us?

10:12:41 4 A. It could be, yes.

10:12:43 5 Q. So Dr. Zheng attends the public Flying Pig, and that
10:12:48 6 could be used to leverage him?

10:12:50 7 A. Yes. Intimidation.

10:12:53 8 Q. How is the MSS going to intimidate him from China in
10:12:59 9 Cincinnati?

10:13:01 10 A. Quite easily.

10:13:03 11 Q. Why don't you tell us how.

10:13:05 12 A. He still has family in China.

10:13:07 13 Q. Well, that's -- that's true. Wouldn't it be a whole lot
10:13:10 14 easier for MSS to threaten the family in China?

10:13:14 15 A. It could, yes.

10:13:15 16 Q. Well, they've got control over the family in China, don't
10:13:20 17 they?

10:13:20 18 A. Yes.

10:13:21 19 Q. And they also have access to all their information, their
10:13:25 20 emails, their texts, all of that in China, don't they?

10:13:27 21 A. They do.

10:13:28 22 Q. So it doesn't really make much sense to show Dr. Zheng
10:13:34 23 pictures of his life in America when they've got his family
10:13:36 24 back home, correct?

10:13:37 25 A. I would -- I would disagree with that statement.

10:13:42 1 Q. Well, I understand you disagree with it, but the logic
10:13:45 2 is, is it not, that the family in China is a lot more
10:13:49 3 accessible than the family in Cincinnati, right?

10:13:51 4 A. But, again, if you are going to coerce, you go to the
10:13:55 5 one that you are closer to, which would include yourself
10:13:59 6 and, in later images, your spouse and your child.

10:14:03 7 Q. Agent, you know very well that in Chinese culture
10:14:09 8 familial piety, in other words, honoring your elders, is an
10:14:14 9 extremely important cultural imperative; is it not?

10:14:18 10 A. It is.

10:14:18 11 Q. And so you honor your relatives, correct? In China, you
10:14:27 12 honor your relatives, correct?

10:14:28 13 A. Yes.

10:14:29 14 Q. And that actually is a duty in the Chinese culture, is it
10:14:33 15 not?

10:14:34 16 A. It is.

10:14:34 17 Q. So what you're saying is Dr. Zheng cares less about his
10:14:39 18 family in China than he does about his activities in the
10:14:44 19 United States. Is that what you're telling us?

10:14:47 20 A. I am not.

10:14:47 21 Q. Let's turn to page 6.

10:15:00 22 On the left, there is Dr. Zheng going into a tennis
10:15:05 23 match, correct?

10:15:05 24 A. Yes.

10:15:06 25 Q. And that's a public event, is it not?

10:15:09 1 A. It is. It appears to be the Southern-Western Open.

10:15:12 2 Q. And thousands of people attend that event, don't they?

10:15:15 3 A. They do.

10:15:16 4 Q. So that's not exactly something that MSS is going to use

10:15:25 5 to exploit Dr. Zheng, is it?

10:15:26 6 A. Again, the totality of the images.

10:15:29 7 Q. Let's go to that, the totality of the image. You could

10:15:33 8 download 200 images with the click of a mouse, couldn't you?

10:15:38 9 A. On WeChat, I could not.

10:15:39 10 Q. Well, but somebody could?

10:15:41 11 A. The MSS could.

10:15:43 12 Q. Absolutely. Or somebody who had friended Dr. Zheng on

10:15:49 13 WeChat too, correct?

10:15:51 14 A. I honestly couldn't answer that. I don't know.

10:15:56 15 Q. But you don't know download -- that's right. You told us

10:15:59 16 you don't know how to download images from WeChat; is that

10:16:02 17 correct?

10:16:02 18 A. I have never done it before.

10:16:03 19 Q. All right. So you're not even sure if the MSS could do

10:16:06 20 it, are you?

10:16:06 21 A. I know that the 200-plus images were downloaded in 28

10:16:11 22 seconds based on the time stamp of the images themselves.

10:16:14 23 Q. Right. That's what computers do; they download images

10:16:17 24 quickly, right?

10:16:17 25 A. Especially if the MSS has control over the application,

10:16:17 1 they certainly do.

10:16:22 2 Q. You don't have any evidence MSS has control over that
10:16:27 3 application, do you?

10:16:28 4 A. I know it happened in 28 seconds.

10:16:29 5 Q. And, again, computers make downloading images fast, don't
10:16:32 6 they?

10:16:33 7 A. Potentially, yes.

10:16:34 8 Q. So the answer is "yes" to that question, okay.

10:16:36 9 Look at the right side of that picture.

10:16:41 10 It's Dr. Zheng in a parking lot. Is he at the tennis
10:16:45 11 match in that picture, do you know?

10:16:47 12 A. I actually don't believe the picture on the right is
10:16:50 13 Dr. Zheng.

10:16:51 14 Q. It is Dr. Zheng?

10:16:52 15 A. I don't know that it is.

10:16:53 16 Q. Okay. So now we have one of these pictures that we don't
10:16:56 17 even know if it's Dr. Zheng, correct?

10:17:00 18 A. Yes.

10:17:01 19 Q. So, again, this is one of the examples the government
10:17:07 20 picked out to show how Dr. Zheng could be leveraged, and it's
10:17:11 21 not anybody we know; is that correct?

10:17:13 22 A. It's an example of the picture of the 200 plus, yes.

10:17:17 23 Q. I will take that as a "yes."

10:17:21 24 THE COURT: I'm going to caution you about
10:17:23 25 testifying.

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10:17:25 1 MR. McBRIDE: Yes, Your Honor.

10:17:26 2 THE COURT: If you want to get a comment from him,

10:17:28 3 ask your question.

10:17:30 4 MR. McBRIDE: Yes, Your Honor.

10:17:30 5 BY MR. McBRIDE:

10:17:31 6 Q. Let's look at page 7.

10:17:32 7 And the image on the left, what does that appear to be?

10:17:46 8 A. That's the Eiffel Tower.

10:17:50 9 Q. So we believe that's in France, do we not?

10:17:52 10 A. It is in France.

10:17:54 11 Q. Okay. There is nothing illegal about going to France, is

10:17:58 12 there?

10:17:59 13 A. Not to the best of my knowledge, no.

10:18:01 14 Q. And let's look at the image on the right. Is that also

10:18:07 15 in France?

10:18:08 16 A. It's The Louvre.

10:18:09 17 Q. It's The Louvre in France?

10:18:11 18 A. It's in Paris.

10:18:13 19 Q. And, again, there's nothing wrong or illegal about

10:18:19 20 visiting The Louvre, is there?

10:18:22 21 A. No.

10:18:23 22 Q. Let's go to page number 8.

10:18:26 23 Do you know who the baby is on the left?

10:18:29 24 A. I do, yes.

10:18:29 25 Q. Who is it?

10:18:30 1 A. It's Dr. Zheng's son.

10:18:32 2 Q. How old is Dr. Zheng's son?

10:18:35 3 A. Now?

10:18:36 4 MR. MANGAN: Objection.

10:18:37 5 THE COURT: Basis?

10:18:38 6 MR. MANGAN: Relevance.

10:18:39 7 THE COURT: I don't see the relevance, but I'll give

10:18:41 8 you some latitude.

10:18:42 9 What was the question, Mr. McBride?

10:18:46 10 MR. McBRIDE: Thank you, Your Honor.

10:18:46 11 BY MR. McBRIDE:

10:18:47 12 Q. So on the left, this is Dr. Zheng's baby, correct?

10:18:49 13 A. Yes.

10:18:50 14 Q. And, again, this is one of the photos that the government

10:18:52 15 picked out to show leverage against Dr. Zheng, correct?

10:18:56 16 A. Yes.

10:18:57 17 Q. And the baby's where? At home in this picture?

10:19:00 18 A. It could be, yes.

10:19:01 19 Q. All right. And so what you are saying is the MSS can get

10:19:04 20 to this baby. Is that what you're saying?

10:19:06 21 A. I'm saying it's a tool for coercion. I doubt any juror

10:19:11 22 member would like to see a picture of their child by a

10:19:14 23 stranger in a foreign country.

10:19:18 24 Q. Except that Dr. Zheng uploaded all of these images to a

10:19:24 25 platform that had one billion users, correct?

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10:19:28 1 A. Certainly, just like Facebook. But I'm sure everybody
10:19:33 2 doesn't want every image they put on Facebook seen by the
10:19:37 3 world, or used by the MSS.

10:19:39 4 Q. And, of course, you are speculating about what other
10:19:42 5 people might want or might not want, correct?

10:19:45 6 A. I certainly wouldn't want it.

10:19:46 7 Q. Fair enough. But you can't speak for everyone, can you?

10:19:48 8 A. I cannot.

10:19:49 9 Q. All right. And, of course, the picture on the right is
10:19:51 10 Dr. Zheng's wife; is that correct?

10:19:53 11 A. And his son, yes.

10:19:54 12 Q. And his son, thank you.

10:19:57 13 And, again, he uploaded this image to WeChat, correct?

10:20:04 14 Or QQ?

10:20:05 15 A. Yes.

10:20:06 16 Q. And there are about a billion people that have access to
10:20:12 17 images -- or a billion people use WeChat and QQ, correct?

10:20:18 18 A. Yes.

10:20:27 19 MR. McBRIDE: May I have a moment, Your Honor?

10:20:29 20 THE COURT: Yes.

10:20:32 21 (Pause.)

10:20:39 22 BY MR. McBRIDE:

10:20:39 23 Q. So I think you also testified, Agent, that there were a
10:20:42 24 number of other people who Qu Hui or Mr. Xu invited to do
10:20:55 25 lectures, correct?

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10:20:56 1 A. Yes.

10:20:56 2 Q. And they would include Linda Li, correct?

10:21:00 3 A. Yes.

10:21:01 4 Q. You found no evidence of threats or leverage against

10:21:05 5 Linda Li, did you?

10:21:06 6 A. I wasn't the case agent on that investigation.

10:21:09 7 Q. Okay. So you don't know?

10:21:10 8 A. I was not the case agent on that investigation.

10:21:12 9 Q. And if you are not the case agent, then you don't know?

10:21:16 10 A. I didn't do the investigation, so I couldn't say one

10:21:18 11 way or the other.

10:21:19 12 Q. Put it this way: You didn't find any evidence of threats

10:21:22 13 against Linda Li, did you?

10:21:24 14 A. I did not, but I was not the case agent on the

10:21:27 15 investigation.

10:21:28 16 Q. I'm only asking what you found.

10:21:30 17 Did you find any threats against Arthur Gau in your

10:21:35 18 evidence?

10:21:36 19 A. No.

10:21:36 20 Q. There were others. Did you find any threats against any

10:21:41 21 other person who Mr. Xu invited to do a professional exchange?

10:21:51 22 A. I did not, but then those were also the only

10:21:55 23 operational devices anyone recovered from the MSS. So it is

10:21:59 24 unknown to me if there were similar instances with any other

10:22:04 25 exchange invitee.

10:22:05 1 Q. So it sounds like you are speculating that there might
10:22:08 2 be; is that correct?

10:22:09 3 A. I'm saying that we have two phones with two MSS
10:22:13 4 officers and one of them did.

10:22:16 5 Q. But for the others that were invited, there are no
10:22:18 6 threats against them, are there?

10:22:20 7 A. Not that I am aware of.

10:22:22 8 Q. Okay, fair. All right.

10:22:26 9 THE COURT: If you're done with the photos, can we
10:22:29 10 collect them, please?

10:22:30 11 MR. McBRIDE: Oh, yes. Thank you, Judge. May I
10:22:33 12 approach the jury?

10:22:35 13 THE COURT: Yes.

10:22:37 14 MR. McBRIDE: And the agent?

10:22:40 15 THE COURT: Yes.

10:23:06 16 And for planning purposes, we're rolling up on a recess.

10:23:14 17 MR. McBRIDE: Yes, sir.

10:23:16 18 THE COURT: You don't have to do it right this
10:23:19 19 minute.

10:23:21 20 BY MR. McBRIDE:

10:23:21 21 Q. One more follow-up on the photographs.

10:23:24 22 Mr. Xu never made it to the meeting in Belgium with
10:23:34 23 Dr. Zheng, did they?

10:23:35 24 A. No.

10:23:36 25 Q. Because you arrested him?

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10:23:38 1 A. The Belgian federal police arrested him.

10:23:41 2 Q. You were there, correct?

10:23:42 3 A. I was in Brussels. I was not at the scene.

10:23:45 4 Q. You were not at the scene.

10:23:45 5 A. No.

10:23:47 6 Q. And of course you couldn't have arrested him because you

10:23:49 7 are not a law enforcement officer in Belgium, are you?

10:23:51 8 A. That's correct.

10:23:52 9 Q. Let me get to my question. Dr. Zheng was never coerced

10:23:56 10 or even saw these documents that Heng had, did he?

10:23:59 11 A. In Brussels, no, he did not.

10:24:01 12 Q. You showed them to him afterwards?

10:24:04 13 A. Yes.

10:24:04 14 Q. What was your purpose in showing them to him?

10:24:06 15 A. We wanted to know where they were from because we were

10:24:09 16 concerned for his safety.

10:24:14 17 MR. McBRIDE: Judge, are we close enough to stop?

10:24:16 18 THE COURT: Yes.

10:24:17 19 MR. McBRIDE: Thank you, Your Honor.

10:24:18 20 THE COURT: We have been at it 30 minutes. We are

10:24:23 21 going to take a break, 15 minutes. During the break, please

10:24:26 22 take a break. Don't discuss the case with anyone, including

10:24:27 23 among yourselves. No independent research. Continue to keep

10:24:30 24 an open mind.

10:24:30 25 We will rise as you leave for a 15-minute recess.

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10:24:34 1 THE COURTROOM DEPUTY: All rise for the jury.

10:24:35 2 THE COURT: We are going to make it 20 minutes.

10:24:38 3 We'll see you at a quarter of.

10:24:42 4 (Jury out at 10:24 a.m.)

10:25:19 5 THE COURT: The jury's left the room. The door's

10:25:21 6 closed. 20-minute recess.

10:25:23 7 Anything require my attention before the recess from the

10:25:27 8 government?

10:25:27 9 MR. MANGAN: No, Your Honor.

10:25:30 10 THE COURT: Defense?

10:25:32 11 MR. McBRIDE: No, Your Honor.

10:25:40 12 THE COURT: We are in recess for 20 minutes.

10:25:40 13 THE COURTROOM DEPUTY: The court is now in recess.

10:25:42 14 (Recess from 10:25 a.m. until 10:43 a.m.)

10:43:53 15 THE COURT: Are we ready for the jury from the

10:43:54 16 government's perspective?

10:43:56 17 MR. MANGAN: Yes, Your Honor.

10:43:57 18 THE COURT: From the defense?

10:43:58 19 MR. McBRIDE: Yes, sir.

10:43:59 20 THE COURT: Let's call for the jury, please.

10:44:45 21 THE COURTROOM DEPUTY: All rise for the jury.

10:44:56 22 (Jury in at 10:45 a.m.)

10:45:20 23 THE COURT: All 15 jurors have returned to the

10:45:23 24 courtroom.

10:45:23 25 We will continue the cross-examination. The witness

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10:45:27 1 remains under oath.

10:45:28 2 You may proceed, Mr. McBride.

10:45:30 3 MR. McBRIDE: Thank you, Your Honor.

10:45:31 4 THE COURT: Very well.

10:45:33 5 BY MR. McBRIDE:

10:45:41 6 Q. Agent Hull, I'd like to switch topics now. You testified
10:45:46 7 about your educational experience, and I would like to talk to
10:45:49 8 you about that a little bit if I may.

10:45:52 9 One of my notes indicates that you went to Xavier
10:45:55 10 University; is that correct?

10:45:56 11 A. No.

10:45:58 12 Q. Okay. Apologies. You did your undergraduate at
10:46:03 13 University of Edinburgh, correct?

10:46:04 14 A. Yes.

10:46:05 15 Q. Can you tell us what dates you attended University of
10:46:11 16 Edinburgh for your undergraduate degree?

10:46:14 17 A. 1998 until 2001.

10:46:22 18 Q. How did you end up at University of Edinburgh?

10:46:26 19 A. They accepted me.

10:46:27 20 Q. You are not from England, are you?

10:46:30 21 A. It was in Scotland. And, no, I am not.

10:46:33 22 Q. Scotland, pardon me. You are correct.

10:46:36 23 Where are you from originally?

10:46:37 24 A. From Ohio.

10:46:38 25 Q. Where in Ohio?

10:46:39 1 A. Central Ohio.

10:46:40 2 Q. So you are not from Cincinnati?

10:46:43 3 A. I am not.

10:46:44 4 Q. Did you have a major that you studied at University of

10:46:53 5 Edinburgh as an undergraduate?

10:46:55 6 A. I did.

10:46:55 7 Q. What was it?

10:46:55 8 A. Archeology.

10:47:05 9 Q. And then I believe that you had -- you studied for a

10:47:12 10 master's degree in art at the University of Edinburgh?

10:47:14 11 A. With honors, yes.

10:47:16 12 Q. What dates did you attend University of Edinburgh for

10:47:22 13 your Master's in Art?

10:47:23 14 A. They were concurrent.

10:47:26 15 Q. I'm sorry. Would you explain that? I don't understand.

10:47:30 16 A. At the end of your second year, you take an

10:47:32 17 examination.

10:47:32 18 Q. Okay.

10:47:33 19 A. If you pass it, they consider your undergraduate work

10:47:37 20 completed, and you do two years of work towards the master's

10:47:40 21 degree.

10:47:40 22 Q. So while you were studying archeology for your

10:47:43 23 undergraduate, you were also able to study art for your

10:47:48 24 master's degree in the last two years; is that correct?

10:47:51 25 A. It was a Master's of Art, yes.

10:47:54 1 Q. Pardon me. Master's in Art?

10:47:57 2 A. It was still archeology.

10:48:01 3 Q. So how does a Master's in Art relate to a degree in

10:48:18 4 archeology?

10:48:19 5 A. It's an MA degree. That's just the name of the degree.

10:48:27 6 Q. Okay. So the name of your undergraduate degree is an MA?

10:48:31 7 A. Yes.

10:48:33 8 Q. Okay. So I just want to understand. So you were

10:48:39 9 studying archeology at University of Edinburgh, correct?

10:48:44 10 A. Yes.

10:48:44 11 Q. And you got -- your ultimate degree, though, was an MA in

10:48:50 12 art; is that correct?

10:48:51 13 A. Yes.

10:48:54 14 Q. Why was it an MA in art if you were studying archeology?

10:49:01 15 A. It was just like BA is a bachelorette. It's the same

10:49:06 16 way. It's the way the Scottish system works.

10:49:10 17 Q. Okay. Thank you for your patience with me on that.

10:49:17 18 And then I think you also told us you had an MA in

10:49:20 19 science?

10:49:20 20 A. An MSC, Master's of Science.

10:49:25 21 Q. And did you study for your MSC during the same time you

10:49:31 22 studied for your MA in art?

10:49:33 23 A. No.

10:49:34 24 Q. Okay. What were the dates you studied for your MSC in

10:49:41 25 science?

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10:49:43 1 A. 2001 until 2002.

10:49:51 2 Q. Did you have any emphasis, special emphasis you were

10:49:56 3 studying for your MSC in science?

10:49:58 4 A. Archeology with a minor in chemistry.

10:50:08 5 Q. Just out of any -- out of curiosity, did you get to, as a

10:50:15 6 student, attend any archeology digs?

10:50:17 7 A. I did.

10:50:18 8 Q. In England?

10:50:19 9 A. In France and England, Scotland.

10:50:29 10 Q. And then as I understand it, you went on to Oxford for

10:50:37 11 your Ph.D. in geology and stable isotope radiology; is that

10:50:43 12 correct?

10:50:43 13 A. No. It was a Doctorate of Philosophy, and it was in

10:50:48 14 archeology and stabilized isotope geochemistry.

10:50:53 15 Q. So the Doctorate of Philosophy is the title of the degree

10:50:57 16 you received?

10:50:58 17 A. Yes. Oxford's the only place that gives D.Phils.

10:51:02 18 Everybody else gives Ph.D.s.

10:51:05 19 Q. Okay. But it is essentially the same thing, correct?

10:51:10 20 A. Essentially.

10:51:10 21 Q. That's because Oxford has a very long history, does it

10:51:14 22 not?

10:51:14 23 A. Over a thousand years.

10:51:17 24 Q. What college were you in in Oxford?

10:51:19 25 A. St. Cross.

10:51:22 1 Q. When was that established?

10:51:23 2 A. In the '60s. It was an international college. I'm not
10:51:30 3 English.

10:51:31 4 Q. So would you explain to me you were studying in geology,
10:51:39 5 in stabilized isotope radiology? What is that about?

10:51:43 6 A. It's archeology and geochemistry. Specifically, I did
10:51:47 7 research on Anglo-Saxon populations in Central and Southern
10:51:53 8 England where we looked at the stable compounds of carbon,
10:51:56 9 nitrogen, and oxygen as a proxy to determine diet and,
10:52:00 10 therefore, dietary pattern of a proxy for social
10:52:07 11 differentiation.

10:52:12 12 Q. So you were studying. Were you obtaining the diet
10:52:22 13 information -- forgive me for dumbing this down -- from bones
10:52:29 14 that had been excavated?

10:52:29 15 A. Yes.

10:52:30 16 Q. And so you were testing these bones, correct?

10:52:35 17 A. Yes, using a particle accelerator.

10:52:38 18 Q. With a particle accelerator, to determine what kind of
10:52:42 19 food the individual was eating, correct?

10:52:46 20 A. Yes.

10:52:46 21 Q. And you did that by analyzing the bone, and it shows what
10:52:52 22 the bone -- what food -- you explain it to me. How does that
10:52:57 23 work?

10:52:58 24 A. As you eat food, the majority of the signature from
10:53:01 25 that food comes from your local water source. And that has

10:53:05 1 a fractionation factor that gets laid down in the organic
10:53:09 2 and inorganic fraction of your bones, teeth, and other
10:53:13 3 tissues in your body. And we'd extract the collagen, which
10:53:16 4 is an organic fraction, from your bones, and that's what we
10:53:19 5 analyzed in the mass specs.

10:53:25 6 Q. You say you used an electron accelerator in that?

10:53:30 7 A. A mass spectrometer. It is a type of particle
10:53:35 8 accelerator, a small one.

10:53:36 9 Q. The same device that's used in urinalysis screening,
10:53:40 10 correct?

10:53:40 11 A. It's the same basic technology. It's a very different
10:53:44 12 type of equipment, but same basic.

10:53:46 13 Q. So I'd like to jump then to your professional experience.
10:53:52 14 Did you work between joining the FBA [sic] and leaving
10:53:58 15 Oxford?

10:53:59 16 A. I only had three months off between leaving Oxford and
10:54:03 17 joining the FBI.

10:54:04 18 Q. Okay. So you didn't have a chance to work; is that fair?

10:54:06 19 A. No.

10:54:07 20 Q. It's not fair, or was that correct?

10:54:09 21 A. I didn't work.

10:54:11 22 Q. Okay. So were you recruited by the FBI?

10:54:15 23 A. I was -- I was contacted at a scientific conference
10:54:21 24 where they showed an interest in my background and skills.

10:54:24 25 Q. What conference were you at?

10:54:29 1 A. It was a conference in Austin, Texas.

10:54:33 2 Q. Was it sponsored by the FBI?

10:54:36 3 A. No.

10:54:37 4 Q. What kind of conference was it?

10:54:39 5 A. It was a state-licensed chemistry conference.

10:54:43 6 Q. Kind of a trade show?

10:54:44 7 A. No.

10:54:45 8 Q. Well, what kind of conference was it? I mean, you

10:54:51 9 described what the title was, but what kind of conference?

10:54:54 10 What was its purpose?

10:54:56 11 A. It was an academic conference. People gave

10:54:59 12 presentations, or they put up posters.

10:55:00 13 Q. Did you give a presentation?

10:55:02 14 A. I had a poster.

10:55:04 15 Q. What does it mean to have a poster at this conference?

10:55:08 16 A. It's basically like a three-by-four, a large piece of

10:55:11 17 paper that has usually the graphs from your research and a

10:55:15 18 couple "X" boxes describing what you saw and what you found.

10:55:18 19 Q. And what's the purpose of this poster?

10:55:21 20 A. Just to give a highlight of the type of research that

10:55:25 21 you've been doing.

10:55:27 22 Q. So is this poster that gives a highlight of your research

10:55:34 23 in order to draw interest from other individuals?

10:55:37 24 A. Yes.

10:55:40 25 Q. And then is that what the FBI saw to approach you?

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10:55:44 1 A. Yes.

10:55:45 2 Q. What was the next step? So you said the FBI approached

10:55:51 3 you. What was the next step in this process?

10:55:54 4 A. I began working at the lab division at Quantico.

10:55:58 5 Q. Well, from the point you were approached to the point you

10:56:01 6 became an employee, what happened? What did you do after you

10:56:04 7 were approached?

10:56:05 8 A. I applied and had to complete a SF86, which is the

10:56:10 9 background documentation needed to get a clearance in the

10:56:13 10 United States government.

10:56:19 11 Q. All right. So there was no conversations between when

10:56:26 12 being approached at the conference you were at in Texas and

10:56:32 13 your applying or filling out the SF86?

10:56:36 14 A. I mean, I had to do a job application like anybody else

10:56:39 15 would.

10:56:39 16 Q. Did you submit it through USAJobs?

10:56:43 17 A. I don't recall. This might have been paper back then.

10:56:46 18 Q. Okay. So is it fair to say that being approached sparked

10:56:48 19 your interest in the FBI?

10:56:52 20 A. It did.

10:56:52 21 Q. So when they recruited you, why did you think you would

10:56:58 22 be interested in working at the FBI?

10:57:00 23 A. I was looking to come back to the States. It seemed

10:57:09 24 like an interesting opportunity, so I took it.

10:57:12 25 Q. What about your background in archeology made you think

10:57:20 1 you'd be a good fit for the FBI?

10:57:22 2 A. I spent my entire academic career working with dead

10:57:27 3 people and dead bodies and tissue, and that's basically what

10:57:30 4 the FBI asked me to do. So it wasn't a huge leap.

10:57:33 5 Q. So you wanted to do forensic work at the FBI; is that

10:57:36 6 right?

10:57:36 7 A. It was research, but, yes.

10:57:39 8 Q. Research, okay. And I think you told us you joined the

10:57:45 9 FBI in 2010, correct?

10:57:46 10 A. I became a special agent in 2010.

10:57:49 11 Q. All right. When did you join the FBI?

10:57:51 12 A. I was a contractor from 2008 until my employment.

10:58:00 13 Q. And when were you appointed?

10:58:03 14 A. I'm sorry?

10:58:03 15 Q. When were you appointed, sir?

10:58:05 16 A. To what? I'm sorry.

10:58:07 17 Q. Well, this is why I am trying to get this straight, and I

10:58:12 18 appreciate your patience. So you just told us that you were a

10:58:16 19 contractor for the FBI until 2008.

10:58:19 20 A. Beginning in 2008.

10:58:20 21 Q. Beginning in 2008. I'm going to try to listen more

10:58:25 22 carefully.

10:58:33 23 So how did you become a contractor for the FBI in 2008?

10:58:38 24 A. Through the Oak Ridge Institute of Science and

10:58:43 25 Education. It's a group managed by Oak Ridge National Lab

10:58:47 1 of Tennessee, the quickest way to become working as a
10:58:51 2 researcher.

10:58:52 3 Q. So you were a contractor; you weren't actually an
10:58:55 4 employee of the FBI at that time?

10:58:57 5 A. Yes, but I worked at the lab in Quantico.

10:58:59 6 Q. Certainly. So the Oak Ridge lab sort of supervised the
10:59:07 7 work that you did when you were located at Quantico; is that
10:59:14 8 correct?

10:59:14 9 A. No. I had a supervisor who was an FBI employee.

10:59:17 10 Q. But it was under the auspices of the Oak Ridge National
10:59:20 11 Laboratory; is that right?

10:59:21 12 A. Yes.

10:59:21 13 Q. And this was all before you actually applied to the FBI;
10:59:34 14 is that right?

10:59:35 15 A. Yes.

10:59:36 16 Q. Okay. So just to make sure I understand and the jury
10:59:41 17 understands, you left Oxford, correct? And then you were met
10:59:47 18 by the FBI or someone from the FBI showed interest in your
10:59:52 19 work at this conference in Texas, correct?

10:59:56 20 A. Yes.

10:59:57 21 Q. All right. And then you became a contractor at the FBI
11:00:04 22 for the Oak Ridge National Labs; is that correct?

11:00:08 23 A. Yes.

11:00:09 24 Q. Okay. How did you go from the Texas conference and your
11:00:16 25 interests there to becoming a contractor in 2008 for the Oak

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11:00:21 1 Ridge lab?

11:00:21 2 A. Well, again, I was approached, I think it was, in 2007.

11:00:26 3 Q. Right.

11:00:27 4 A. Presenting some of my work at Oxford. They asked me if

11:00:31 5 I was interested, showed me how to apply. I applied.

11:00:36 6 Q. So the FBI showed you how to apply to become a

11:00:39 7 contractor?

11:00:39 8 A. Yeah, they sent me a link to the -- to the website.

11:00:42 9 Q. Okay. What did you do when you were working for the Oak

11:00:55 10 Ridge labs at Quantico?

11:00:56 11 A. I worked on a project trying to take teeth and using a

11:01:03 12 mix of stable and unstable isotopes for the purposes of

11:01:07 13 geolocation. So the idea was that if we found a dead body

11:01:13 14 somewhere in the United States, we would have a geological

11:01:16 15 map based on the isotope values. And you try to match the

11:01:21 16 teeth from that deceased individual to a potential

11:01:23 17 geographic area inside the United States.

11:01:25 18 Q. And how would you match the teeth to the geographical

11:01:29 19 area?

11:01:30 20 A. Because it's dictated by water.

11:01:33 21 Q. Much like your work at Oxford, correct?

11:01:37 22 A. Yes.

11:01:38 23 Q. All right. That makes sense. All right.

11:01:49 24 Did you work with other scientists at the FBI?

11:01:53 25 A. I did.

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11:01:55 1 Q. So you're aware that the FBI employs not only special
11:02:02 2 agents but scientists, correct?

11:02:04 3 A. I am.

11:02:04 4 Q. And you are also aware, are you not, that they employ --
11:02:08 5 the FBI employs language specialists?

11:02:11 6 A. I am.

11:02:12 7 Q. In fact, they were used in this case, were they not?

11:02:15 8 A. Yes.

11:02:16 9 Q. And, of course, also intelligence analysts, correct?

11:02:21 10 A. Yes.

11:02:22 11 Q. Do you have an intelligence analyst working for you now?

11:02:25 12 A. Yes.

11:02:25 13 Q. Would you describe the duties of the intelligence
11:02:28 14 analyst?

11:02:28 15 A. They review the reports that agents write up. And if
11:02:33 16 they see that there is any intelligence value to the
11:02:37 17 community, they release that to the USIC, which is the
11:02:40 18 United States intelligence community. Equally they do tasks
11:02:43 19 for things like domain so that we know what companies, for
11:02:47 20 example, that could be targeted by foreign services.

11:02:52 21 Q. Some of the research they do is collect publicly
11:02:56 22 available information, is it not?

11:02:58 23 A. Some of it is, yes.

11:02:59 24 Q. And then the FBI has approximately 10,400 agents. Would
11:03:18 25 you figure that's about right?

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11:03:19 1 A. Ballpark, yes.

11:03:21 2 Q. And a total of about, if I told you it was about 3,300 --

11:03:26 3 33,500 employees total, would that sound about right to you?

11:03:30 4 A. Pretty close, yes.

11:03:31 5 Q. Okay. So I'm interested, Agent, how did you go from the

11:03:42 6 work you were doing as a scientist to being a special agent

11:03:47 7 for the FBI?

11:03:48 8 A. I got bored, so I applied.

11:03:53 9 Q. And is that when you filled out your SF87?

11:03:59 10 A. No. I had to do that earlier to get clearance.

11:04:03 11 Q. To become a contractor?

11:04:04 12 A. Yep.

11:04:05 13 Q. All right. So what was the process for you to become a

11:04:09 14 special agent?

11:04:09 15 A. You apply. They give you a written examination, which

11:04:13 16 we call Phase 1. You pass Phase 1. Then you take a second

11:04:19 17 test or an in-person panel, which is Phase 2, which is three

11:04:24 18 senior agents who interview you. You pass that process.

11:04:29 19 You have to do a polygraph, which is a full-scope polygraph.

11:04:33 20 So you are on the lie detector box for however long they

11:04:37 21 need you to be on. You pass that. You get a physical to

11:04:41 22 make sure you are physically sound. And then you have to

11:04:44 23 pass a fitness test before you are even allowed to begin at

11:04:47 24 Quantico.

11:04:48 25 Q. I think you actually have to pass the fitness test every

11:04:52 1 year, don't you?

11:04:53 2 A. We do.

11:04:54 3 Q. I'm curious. Would you agree with me that the duties of
11:05:01 4 an agent are very different from the duties of a scientist,
11:05:04 5 particularly as you practice science?

11:05:06 6 A. Yes.

11:05:07 7 Q. So you told us you got bored doing that work, but it
11:05:14 8 seems like to me -- well, let me ask you it this way: You did
11:05:22 9 that work for ten years as a scientist?

11:05:27 10 A. Yes.

11:05:28 11 Q. What about it made you become bored?

11:05:33 12 A. I realized I was a very educated ditchdigger, and I
11:05:38 13 needed to find something else to do in life.

11:05:42 14 Q. It sounded to me like the work of identifying the bodies
11:05:47 15 of deceased individuals was worthy work. Do you not agree
11:05:57 16 with that?

11:05:57 17 A. Oh, it absolutely was.

11:06:01 18 Q. Because, of course, there are victims, family members who
11:06:10 19 may be looking for that deceased individual, correct?

11:06:13 20 A. Yes. But I didn't do that work.

11:06:17 21 Q. Pardon me?

11:06:17 22 A. I didn't do that work.

11:06:18 23 Q. Understood, understood. But while you were doing your
11:06:21 24 work as a scientist, you understood the importance of that
11:06:26 25 work, did you not?

11:06:27 1 A. Yes, I did.

11:06:29 2 Q. All right. So you've just described yourself in that

11:06:32 3 role as an overeducated ditchdigger, did you not?

11:06:40 4 A. I did.

11:06:41 5 Q. And you also just told us how important that work was,

11:06:46 6 did you not?

11:06:47 7 A. I did.

11:06:48 8 Q. Reconcile those two points of view for us.

11:06:52 9 A. I wanted to try something new. And I had a lot of

11:06:57 10 exposure to agents while in the lab, and it seemed

11:07:00 11 appealing.

11:07:01 12 Q. What seemed appealing about it?

11:07:03 13 A. What the agent job role is.

11:07:07 14 Q. So agents get to apply for and execute search warrants,

11:07:12 15 don't they?

11:07:13 16 A. Amongst other things, yes.

11:07:15 17 Q. We'll talk about some of those other things.

11:07:17 18 And agents get to wear a badge and a gun, don't they?

11:07:21 19 A. They do.

11:07:22 20 Q. And agents also get to conduct surveillance, correct?

11:07:26 21 A. Yes.

11:07:27 22 Q. And agents get to do trash pulls, correct?

11:07:31 23 A. If they are so unlucky to get selected, yes.

11:07:35 24 Q. And agents are allowed to apply for monitoring devices --

11:07:41 25 or pardon me -- tracking devices on automobiles, are they not?

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11:07:45 1 A. Yes.

11:07:45 2 Q. And if the judge grants that request, they can place

11:07:49 3 those tracking devices on automobiles, can they not?

11:07:53 4 A. Again, yes.

11:07:55 5 Q. And, of course, they can arrest people, can they not?

11:08:00 6 A. Yes.

11:08:01 7 Q. So is it fair to say agents have a great deal more law

11:08:14 8 enforcement power than does the scientist?

11:08:17 9 A. By definition, yes.

11:08:19 10 Q. And so is that what attracted you to working as an agent?

11:08:25 11 A. In part.

11:08:26 12 Q. What else?

11:08:29 13 A. I was trying to get back to Ohio, and the FBI does not

11:08:34 14 have a lab in Ohio.

11:08:37 15 Q. Had you -- okay. So you had no opportunity as a

11:08:42 16 scientist to go back to Ohio; is that right?

11:08:45 17 A. Yes.

11:08:45 18 Q. And that's where your family is, correct?

11:08:47 19 A. Yes.

11:08:48 20 Q. Okay. Since 2002, the FBI changed its mission, did they

11:09:06 21 not?

11:09:06 22 A. You'd have to be more specific.

11:09:12 23 Q. Certainly. 2002 the towers came down, correct?

11:09:15 24 A. That was 2001.

11:09:16 25 Q. Pardon me. 2001. I am thinking 2002 for another reason

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11:09:21 1 I won't share with you.

11:09:22 2 2001 the towers came down, correct?

11:09:25 3 A. Yes.

11:09:25 4 Q. And the FBI before that was primarily a domestic law

11:09:29 5 enforcement agency, correct?

11:09:30 6 A. Maybe primarily, but we have always had a

11:09:33 7 counterintelligence mission.

11:09:34 8 Q. Understood. After 2001, the mission of counter-

11:09:40 9 intelligence increased, did it not?

11:09:42 10 A. I would say the counterterrorism mission increased.

11:09:46 11 Q. All right. So you were telling us that there was no

11:09:50 12 additional emphasis on counterintelligence?

11:09:52 13 A. There may have been, but I wasn't in the FBI in 2002.

11:09:55 14 Q. How does the FBI describe its mission now?

11:09:59 15 A. We are a national security and law enforcement agency.

11:10:03 16 Q. National security first?

11:10:07 17 A. I believe so, yes.

11:10:09 18 Q. And you would agree with me that MSS has, from China's

11:10:22 19 point of view, a national security function, don't you?

11:10:25 20 A. That would be my understanding, yes.

11:10:27 21 Q. Okay. And, in fact, is it your understanding that they

11:10:31 22 have counterintelligence operations?

11:10:33 23 A. Yes.

11:10:35 24 Q. And they also have counterespionage operations?

11:10:39 25 A. Again, yes.

11:10:40 1 Q. And those operations serve the same function for China as
11:10:46 2 they do for the United States, do they not?

11:10:48 3 A. Yes.

11:10:48 4 Q. Do you view China as an enemy of the United States?

11:10:59 5 A. No.

11:11:02 6 Q. How do you view China?

11:11:07 7 MR. MANGAN: I'll object, Your Honor.

11:11:08 8 THE COURT: Basis?

11:11:09 9 MR. MANGAN: Relevance.

11:11:13 10 THE COURT: I've given you a bunch of latitude, and
11:11:15 11 I continue to.

11:11:16 12 The objection's overruled.

11:11:20 13 MR. McBRIDE: Thank you, Your Honor. I'll pull it
11:11:21 14 in. I'll withdraw that question.

11:11:25 15 BY MR. McBRIDE:

11:11:34 16 Q. Where was your first duty station as an agent?

11:11:36 17 A. Boston, Massachusetts.

11:11:38 18 Q. And what were your duties in Boston, Massachusetts?

11:11:42 19 A. I was a counterintelligence agent.

11:11:44 20 Q. Okay. And what dates were you at -- in Boston?

11:11:47 21 A. 2010 until 2015.

11:11:49 22 Q. And what was your next duty station?

11:11:59 23 A. Cincinnati.

11:12:00 24 Q. And when did you arrive in Cincinnati?

11:12:06 25 A. July 2015.

11:12:09 1 Q. And am I correct that that is the duty station that you
11:12:17 2 have been at since?

11:12:18 3 A. Yes.

11:12:18 4 Q. And am I correct that you chose to go to Cincinnati?

11:12:30 5 A. I received a voluntary rotational transfer, for which I
11:12:34 6 had to apply.

11:12:36 7 Q. But it was your preference to go to the Cincinnati
11:12:39 8 offices?

11:12:40 9 A. Yes.

11:12:41 10 Q. Okay. I'd like to know a little bit about your duties
11:12:58 11 when you arrived at the Cincinnati office. What were your
11:13:05 12 duties at the Cincinnati office?

11:13:06 13 A. I was a counterintelligence special agent, and I was
11:13:10 14 also the strategic partnership coordinator.

11:13:14 15 Q. What is the strategic partner coordinator?

11:13:16 16 A. We do outreach with industry.

11:13:18 17 Q. Was General Electric one of your strategic partners?

11:13:23 18 A. At that time they were not.

11:13:24 19 Q. Are they now?

11:13:25 20 A. I'd say yes.

11:13:40 21 MR. McBRIDE: Your Honor, I know we're coming up on
11:13:42 22 a break. This might be a good place to stop.

11:13:44 23 THE COURT: Very well. I appreciate you telling me.

11:13:48 24 MR. McBRIDE: Yes, sir.

11:13:49 25 THE COURT: We have been at it 30 minutes. We are

11:13:51 1 going to break for 15, come back, hear some more testimony,
11:13:51 2 and then I promise we will feed you.

11:13:54 3 During the break, take a break. Don't discuss it amongst
11:13:56 4 yourselves or anyone else. No independent research. Continue
11:13:59 5 to keep an open mind.

11:14:01 6 We'll rise as you leave for 15 minutes.

11:14:04 7 THE COURTROOM DEPUTY: All rise for the jury.

11:14:05 8 (Jury out at 10:14 a.m.)

11:14:50 9 THE COURT: The jury's left the room. We are going
11:14:53 10 to break for 15 minutes.

11:14:54 11 I have given you a lot of latitude on relevance.

11:14:58 12 We're in recess.

11:14:59 13 THE COURTROOM DEPUTY: This court is in recess for
11:15:01 14 15 minutes.

11:15:02 15 (Recess from 11:15 a.m. until 11:30 p.m.)

11:30:36 16 THE COURT: Are we ready to get the jury from the
11:30:39 17 government's perspective?

11:30:40 18 MR. MANGAN: Yes, Your Honor.

11:30:41 19 THE COURT: Defense as well?

11:30:42 20 MR. McBRIDE: Yes, Your Honor.

11:30:43 21 THE COURT: Let's call for the jury, please.

11:31:06 22 (Jury in at 11:31 a.m.)

11:31:33 23 THE COURTROOM DEPUTY: All rise for the jury.

11:32:05 24 THE COURT: You may all be seated.

11:32:12 25 15 jurors have rejoined us.

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11:32:14 1 We will continue with cross-examination. The witness
11:32:16 2 remains under oath.

11:32:18 3 MR. McBRIDE: Your Honor, I am very sorry, but I was
11:32:20 4 just told Mr. Xu is having a problem hearing. Could we take a
11:32:25 5 moment to --

11:32:28 6 THE COURT: Yes.

11:32:29 7 MR. McBRIDE: Thank you, Your Honor.

11:32:52 8 (Pause.)

11:32:52 9 MR. McBRIDE: Your Honor, I was just informed the
11:32:56 10 battery of the equipment is out.

11:32:58 11 THE COURT: Take some time.

11:33:01 12 MR. McBRIDE: Thank you, Your Honor.

11:33:49 13 (Pause.)

11:33:49 14 MR. McBRIDE: Your Honor, Mr. Xu can hear. The
11:33:52 15 equipment is fixed.

11:33:53 16 THE COURT: Very well.

11:33:54 17 MR. McBRIDE: May I proceed?

11:33:55 18 THE COURT: Yes.

11:33:57 19 MR. McBRIDE: Thank you, Your Honor.

11:34:03 20 BY MR. McBRIDE:

11:34:21 21 **Q.** Agent Hull, we were talking about your professional
11:34:24 22 experience and that you were at Cincinnati.

11:34:27 23 I believe you testified that you have become a
11:34:30 24 supervisory special agent?

11:34:33 25 **A.** Yes.

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11:34:33 1 Q. When did that happen, sir?

11:34:35 2 A. January of 2020.

11:34:38 3 Q. Was your promotion related to the work on this case?

11:34:47 4 A. Not exclusively, no.

11:34:50 5 Q. This was an important part of that?

11:34:57 6 A. It was a piece of it.

11:34:59 7 Q. This is a big case, though, isn't it?

11:35:04 8 A. It is.

11:35:05 9 Q. I believe you testified earlier that the FBI's
11:35:28 10 investigation of this matter and -- pardon me. I am going to
11:35:33 11 take this off.

11:35:34 12 The FBI's investigation of this matter and GE's
11:35:37 13 investigation, they had parallel investigations; is that
11:35:41 14 correct?

11:35:41 15 A. Yes.

11:35:42 16 Q. All right. I'd like to explore that a little bit.

11:35:48 17 First of all, does the FBI still have an agent located at
11:35:52 18 General Electric?

11:35:53 19 A. Excuse me?

11:35:54 20 Q. Does the FBI still have an agent located at the General
11:36:02 21 Electric Aviation facility?

11:36:03 22 A. We have never had an agent located at the GE Aviation
11:36:07 23 facility.

11:36:08 24 Q. Do you have an agent in your unit assigned to GE?

11:36:12 25 A. Assigned?

11:36:14 1 Q. Yes.

11:36:14 2 A. No.

11:36:15 3 Q. To work on matters related to GE?

11:36:17 4 A. No.

11:36:18 5 Q. I'd like to show you a document that I believe you are
11:36:38 6 familiar with. Give me a moment.

11:36:59 7 MR. McBRIDE: Your Honor, may I approach the agent?

11:37:01 8 THE COURT: Yes.

11:37:11 9 Is the other side able to see what you are showing the
11:37:14 10 witness?

11:37:30 11 MR. McBRIDE: My apologies, Your Honor.

11:37:46 12 May I approach, Your Honor?

11:37:48 13 THE COURT: Yes.

11:38:05 14 BY MR. McBRIDE:

11:38:05 15 Q. Sir, what is that document?

11:38:07 16 A. It is a PowerPoint presentation from the Domestic
11:38:13 17 Security Alliance Council, called DSAC.

11:38:14 18 Q. Did you participate in that presentation?

11:38:16 19 A. I did.

11:38:17 20 Q. Did you write that document or develop it?

11:38:18 21 A. No. I did, like, one slide.

11:38:24 22 Q. Okay. But you are familiar with the contents of that
11:38:27 23 document?

11:38:27 24 A. I am.

11:38:27 25 Q. All right. What is the Domestic Security Alliance

11:38:33 1 Council?

11:38:33 2 A. It's a group of mostly Fortune 100 companies, maybe
11:38:40 3 Fortune 500 companies who have an association called DSAC,
11:38:45 4 which is run by DSAC, and the FBI participates.

11:38:51 5 Q. Well, isn't it true that Christopher Wray is the chairman
11:38:55 6 of that board or president of that board?

11:38:58 7 A. As an outside role perhaps, yes.

11:39:01 8 Q. And he is the director of the FBI, correct?

11:39:04 9 A. He is.

11:39:05 10 Q. Is GE a member of the Domestic Security Alliance?

11:39:09 11 A. They are now, yes.

11:39:11 12 Q. They weren't before this investigation?

11:39:14 13 A. I don't believe they were, no.

11:39:17 14 Q. The DCSA is a partnership between the U.S. government and
11:39:27 15 private industry, correct?

11:39:31 16 A. It is.

11:39:31 17 Q. It's not just run by private industry, correct?

11:39:34 18 A. Yes.

11:39:34 19 Q. All right. Will you look at your presentation, please?
11:39:51 20 What's the title of that presentation?

11:39:53 21 A. "Economic Espionage, Protection Through Partnership."

11:39:59 22 Q. What are the symbols on the front of that presentation?

11:40:01 23 A. The GE Aviation, I think they call it the meatball, and
11:40:07 24 the FBI seal.

11:40:08 25 Q. Okay. Would you look at the last page of that

11:40:12 1 presentation. Does it list the presenters?

11:40:23 2 A. It does.

11:40:23 3 Q. Would you read those presenters off.

11:40:26 4 A. Mike Huffman, senior security manager; Laura Tubasing,
11:40:31 5 senior compliance and regulatory specialist; Eric Ridder,
11:40:35 6 senior director of cyber security; Michael Bishop, executive
11:40:39 7 counsel, global investigations; Josh Murphy, supervisory
11:40:44 8 special agent, Cincinnati; and Bradley Hull, special agent,
11:40:47 9 Cincinnati.

11:40:48 10 Q. All right. Supervisory Special Agent Murphy and you,
11:40:53 11 when you were a special agent, were two of the presenters,
11:40:56 12 correct?

11:40:56 13 A. Yes.

11:40:57 14 Q. And you work for the FBI, of course.

11:40:59 15 A. Yes.

11:40:59 16 Q. Who did the other presenters work for?

11:41:01 17 A. GE.

11:41:02 18 Q. General Electric?

11:41:03 19 A. Yes.

11:41:04 20 Q. So they made this presentation together with you?

11:41:06 21 A. Yes.

11:41:07 22 Q. All right. What did your investigation call Mr. Xu?

11:41:16 23 A. What did we call him?

11:41:17 24 Q. Um-hmm.

11:41:18 25 A. His name.

11:41:20 1 Q. In that document, doesn't it list your code name for
11:41:24 2 Mr. Xu?

11:41:25 3 A. That was not an FBI code name.

11:41:28 4 Q. Okay.

11:41:33 5 MR. McBRIDE: May I retrieve that, Your Honor?

11:41:36 6 THE COURT: Yes.

11:41:52 7 BY MR. McBRIDE:

11:41:52 8 Q. I'd like to continue to talk about this issue of the
11:42:00 9 parallel investigation, if I may.

11:42:04 10 Is it not correct that after -- well, I think you
11:42:10 11 testified earlier that you notified GE of the circumstances
11:42:16 12 with Dr. Zheng; is that correct?

11:42:16 13 A. Yes.

11:42:16 14 Q. All right. You, being the FBI in general. Was it you
11:42:20 15 specifically?

11:42:20 16 A. It was.

11:42:21 17 Q. Okay. And who did you at GE report them to?

11:42:27 18 A. I'm sorry?

11:42:28 19 Q. Who did you report to GE about Dr. Zheng?

11:42:31 20 A. Two individuals from their security department.

11:42:34 21 Q. What security department? What specific security
11:42:38 22 department?

11:42:39 23 A. They call it the Insider Threat Task Force.

11:42:41 24 Q. Do you know what an insider threat task force is?

11:42:45 25 A. Yes.

11:42:45 1 Q. Just briefly, what's an insider threat?

11:42:49 2 A. GE looks for employees within the company who have red
11:42:54 3 flags, basically activities that are outside of the norm.
11:42:58 4 And they do internal company investigations based off of
11:43:02 5 those red flags.

11:43:03 6 Q. And in this case, you're talking about Dr. Zheng going to
11:43:15 7 China?

11:43:15 8 A. Yes.

11:43:16 9 Q. Will you tell the ladies and gentlemen of the jury what
11:43:21 10 an FD1057 is?

11:43:23 11 A. I'm sorry. Can you repeat that again?

11:43:26 12 Q. What's an FD1057?

11:43:28 13 A. FD1057 is an electronic communication. That's how the
11:43:32 14 FBI documents reports. It's one of the ways we document
11:43:37 15 reports when we meet with individuals or companies.

11:43:41 16 Q. All right.

11:43:43 17 MR. McBRIDE: Your Honor, may I approach the
11:43:45 18 witness?

11:43:45 19 THE COURT: Yes.

11:44:00 20 BY MR. McBRIDE:

11:44:00 21 Q. Sir, what is that?

11:44:01 22 A. It's a report of the meeting on 7-11 of 2017.

11:44:06 23 Q. Who was at that meeting?

11:44:09 24 A. I'm sorry?

11:44:10 25 Q. Who was at that meeting?

11:44:11 1 A. A number of employees at GE Aviation.

11:44:15 2 Q. Would you list their names?

11:44:16 3 A. I can. Michael Huffman, David Handler, Phillip Smith,

11:44:22 4 Darrell Kates, Patrick Alberts, Gordon Myers remotely, Eric

11:44:28 5 Ridder, and a Mike LNU, which means I didn't get his last

11:44:32 6 name, and then myself and SSA Murphy.

11:44:35 7 Q. Would you read -- do you see where it says "synopsis" on

11:44:38 8 that document?

11:44:39 9 A. I do.

11:44:39 10 Q. Would you read that, please?

11:44:42 11 MR. MANGAN: Objection.

11:44:42 12 THE COURT: Basis?

11:44:43 13 MR. MANGAN: Hearsay.

11:44:45 14 THE COURT: Response?

11:44:46 15 MR. McBRIDE: I'm sorry, Your Honor. What was the

11:44:48 16 basis?

11:44:48 17 THE COURT: The objection was hearsay.

11:44:50 18 MR. McBRIDE: Your Honor, this is the agent's

11:44:56 19 document. They're reading -- he is reading from it. He has

11:44:59 20 personal knowledge of it.

11:45:00 21 THE COURT: But he is not able to read somebody

11:45:02 22 else's statement.

11:45:05 23 Sustained.

11:45:05 24 BY MR. McBRIDE:

11:45:05 25 Q. What is this document about?

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11:45:07 1 A. A meeting with GE Aviation.

11:45:11 2 Q. All right. And this document deals with the situation

11:45:25 3 involving Dr. Zheng, correct?

11:45:27 4 A. Yes.

11:45:29 5 Q. I'd ask you to look at the last paragraph.

11:45:36 6 Did GE fire Dr. Zheng after this incident was discussed?

11:45:42 7 A. I'm sorry. At this meeting?

11:45:45 8 Q. Yes.

11:45:46 9 A. No.

11:45:47 10 Q. Did they conclude that at that time they did not have

11:45:50 11 enough to fire Dr. Zheng?

11:45:51 12 A. No.

11:45:56 13 Q. No, they did not have enough information to fire

11:46:00 14 Dr. Zheng; is that correct?

11:46:00 15 A. Correct.

11:46:01 16 Q. In the course of your investigation, you found that

11:46:34 17 Dr. Zheng did not take his GE computer to China, correct?

11:46:39 18 A. Yes.

11:46:42 19 Q. He, in fact, took a laptop of his own, correct?

11:46:44 20 A. Yes.

11:46:44 21 Q. And he had downloaded some GE information onto that

11:46:47 22 laptop?

11:46:48 23 A. Yes.

11:46:48 24 Q. At some point GE had everybody at the GE Aviation turn

11:46:55 25 over their personal laptops, correct?

11:46:57 1 A. I don't know if that's completely accurate. There was
11:47:00 2 a degree to that, but not quite to the way you stated it.
11:47:03 3 Q. GE had Dr. Zheng turn over his personal laptop to them,
11:47:07 4 correct?
11:47:07 5 A. Yes.
11:47:07 6 Q. Who did the forensic examination of that laptop?
11:47:11 7 A. A forensic examiner within GE.
11:47:15 8 Q. And they provided that information to the FBI, correct?
11:47:18 9 A. Pursuant to a legal request, yes.
11:47:20 10 Q. Understood. Understood. But they did the analysis which
11:47:24 11 you received, correct?
11:47:25 12 A. They did a forensic image which we received.
11:47:30 13 Q. Fair enough. What's a forensic image?
11:47:32 14 A. It's a copy.
11:47:33 15 Q. And it's a copy that cannot be altered, correct?
11:47:36 16 A. Correct.
11:47:56 17 MR. McBRIDE: Give me a minute, Your Honor, please.
11:48:15 18 BY MR. McBRIDE:
11:48:15 19 Q. I want to go back and start talking about your
11:48:19 20 investigation, all right?
11:48:23 21 A. Okay.
11:48:23 22 Q. The presentation the government gave, and you testified
11:48:28 23 to, was chronologically presented, correct?
11:48:31 24 A. You mean the DSAC presentation?
11:48:34 25 Q. Your presentation in court was chronologically presented,

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11:48:37 1 was it not?

11:48:38 2 A. Roughly, yes.

11:48:38 3 Q. Roughly. Fair enough. But your investigation didn't
11:48:42 4 begin until 2017, correct?

11:48:47 5 A. Yes.

11:48:48 6 Q. So I'd like to talk about that a little bit.

11:48:55 7 So you learned of Dr. Zheng's trip to China, and you
11:49:04 8 notified the GE security folks, correct?

11:49:10 9 A. Yes.

11:49:11 10 Q. Specifically, the insider threat security folks?

11:49:16 11 A. Yes.

11:49:17 12 Q. And the insider threat means that somebody is in the
11:49:23 13 company who may be providing information outside the company,
11:49:27 14 correct?

11:49:27 15 A. That's one of the roles they have, yes.

11:49:29 16 Q. Would you define it, please? Would you define what an
11:49:33 17 insider threat is from your perspective?

11:49:35 18 A. Someone who has access within any entity, whether it's
11:49:39 19 a company or government, to collect information without
11:49:42 20 authorization.

11:49:46 21 Q. And so in this case, it was significant that you may have
11:49:54 22 an insider threat at General Electric, correct?

11:49:58 23 A. In this case it was significant. I don't know the
11:50:00 24 number of insider threat cases that GE has on an annual
11:50:04 25 basis.

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11:50:04 1 Q. I understand. But this case involved its polymatrix
11:50:10 2 composites, correct?

11:50:11 3 A. Polymetric, yes.

11:50:14 4 Q. Polymetric, thank you. And the polymetric composites are
11:50:19 5 the GE trade secret at issue in this case, correct?

11:50:21 6 A. Yes.

11:50:22 7 Q. And the polymetric composites were developed over a long
11:50:31 8 period of time, correct?

11:50:32 9 A. Decades, to my understanding.

11:50:33 10 Q. And they are used in American military aircraft, correct?

11:50:38 11 A. I don't believe they are.

11:50:39 12 Q. You don't believe they are.

11:50:47 13 So General Electric is a clear defense contractor,
11:50:51 14 correct?

11:50:51 15 A. Yes, they are.

11:50:53 16 Q. All right. So that means in this case military
11:50:59 17 technology is not implicated; is that correct?

11:51:02 18 A. No.

11:51:04 19 Q. I'm sorry. I don't mean to be difficult, but are you
11:51:07 20 saying no military technology is implicated in this case?

11:51:12 21 A. In this instance, no.

11:51:14 22 Q. Thank you. So given that, there was no classified
11:51:23 23 technology in this case, correct?

11:51:26 24 A. There was no classified technology.

11:51:30 25 Q. All right. And there was no ITAR information related to

11:51:33 1 your investigation, correct?

11:51:34 2 A. Related to the defendant, no.

11:51:36 3 Q. All right. So would you tell the ladies and gentlemen
11:51:40 4 what ITAR materials might be?

11:51:43 5 A. ITAR stands for the International Trafficking and Arms
11:51:46 6 Regulation. It's a list of commodities protected under the
11:51:50 7 United States munitions list that are controlled because
11:51:53 8 they have defense applications.

11:51:54 9 Q. But in this case, there is nothing on the USML because
11:51:57 10 military technology is not implicated, correct?

11:52:00 11 A. The compass family are their commercial systems.

11:52:05 12 Q. Thank you. And these commercial systems are a source of
11:52:10 13 income for General Electric, of course?

11:52:15 14 A. I imagine so, yes.

11:52:16 15 Q. And I believe you testified -- and correct me if I'm
11:52:19 16 wrong -- that it was worth a tremendous amount of money to
11:52:25 17 General Electric, correct?

11:52:25 18 A. Yes.

11:52:26 19 Q. How much?

11:52:27 20 A. I don't have that kind of figure.

11:52:30 21 Q. Generally, do you have an idea?

11:52:32 22 A. I do not.

11:52:32 23 Q. Do you have an idea of what it cost to develop General
11:52:36 24 Electric -- it costs General Electric to develop this poly-
11:52:39 25 matrix [sic] composite materials?

11:52:41 1 A. Generally, I imagine it's hundreds of millions, if not
11:52:47 2 billions, of dollars.

11:52:53 3 Q. So just to be clear, this case does not implicate
11:52:59 4 military technology, correct?

11:53:01 5 A. The compass families are used in commercial aircraft
11:53:06 6 systems.

11:53:08 7 Q. And GE has -- sells these engines all over the world, do
11:53:14 8 they not?

11:53:14 9 A. They do.

11:53:16 10 Q. I'd like to talk about these engines in relationship to
11:53:20 11 an organization that you mentioned during your direct
11:53:24 12 testimony called AVIC.

11:53:27 13 A. I say AVIC, but toe-may-toe, toe-mah-toe.

11:53:30 14 Q. AVIC's fine. I'm happy to go with that.

11:53:32 15 So would you describe again for the ladies and gentlemen
11:53:35 16 of the jury what AVIC is?

11:53:37 17 A. It's a state-owned enterprise in China that is one of
11:53:42 18 the components of the Chinese aviation industries.

11:53:46 19 Q. Is it state owned?

11:53:47 20 A. Yes.

11:53:48 21 Q. And does it produce military aircraft designed and
11:53:55 22 research military aircraft for China?

11:53:58 23 A. I believe it does, yes.

11:53:59 24 Q. And does it also design and research large-body
11:54:04 25 commercial vehicles in China?

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11:54:06 1 A. Yes.

11:54:06 2 Q. All right. But itself doesn't manufacture any vehicles?

11:54:12 3 A. AVIC?

11:54:13 4 Q. AVIC.

11:54:15 5 A. I don't know that I can answer that.

11:54:18 6 Q. That's fair. That's fair.

11:54:22 7 You also heard Dr. Mulvenon talk about COMAC, did you

11:54:29 8 not?

11:54:29 9 A. I did.

11:54:29 10 Q. All right. Do you know what COMAC is?

11:54:30 11 A. I do.

11:54:30 12 Q. What is COMAC?

11:54:31 13 A. It's another state-owned enterprise in China that is

11:54:35 14 part of the Chinese aviation industries.

11:54:37 15 Q. And what does it do?

11:54:38 16 A. It manufactures the airframes.

11:54:42 17 Q. So tell me if I'm correct. AVIC generally designs and

11:54:46 18 researches the vehicles; COMAC produces some of the vehicles

11:54:51 19 for China?

11:54:53 20 A. Generally, yes.

11:54:54 21 Q. Aircraft, of course, we're talking about. Okay.

11:55:08 22 MR. McBRIDE: Could we put up Exhibit 10, Government

11:55:07 23 Exhibit 10?

11:55:08 24 May I show that to the jury, Your Honor.

11:55:10 25 THE COURT: Government Exhibit what?

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11:55:13 1 MR. McBRIDE: 10.

11:55:14 2 THE COURT: Has it been admitted?

11:55:16 3 MR. McBRIDE: Yes, sir.

11:55:16 4 THE COURT: Okay. You can show it to the witness

11:55:19 5 and the jury.

11:55:21 6 BY MR. McBRIDE:

11:55:21 7 Q. Can you see that in front of the screen, Agent?

11:55:23 8 A. I can now, yes.

11:55:24 9 Q. All right. So this is the chart that Dr. Mulvenon

11:55:30 10 discussed to describe the overall structure related to these

11:55:34 11 two organizations, correct?

11:55:35 12 A. Yes.

11:55:39 13 MR. McBRIDE: Paul, could we focus on the bottom

11:55:42 14 third, where it says -- there we are.

11:55:45 15 BY MR. McBRIDE:

11:55:45 16 Q. So COMAC is in the middle of the bottom third, and AVIC

11:55:53 17 is on the right; is that correct?

11:55:55 18 A. It is.

11:55:55 19 Q. Okay. You also, in the context of discussing Safran

11:56:06 20 earlier, alluded to a JV that Safran was involved in?

11:56:13 21 A. Yes.

11:56:13 22 Q. Do you remember that, sir?

11:56:15 23 A. I do.

11:56:15 24 Q. Was that JV CMF International?

11:56:20 25 A. Yes.

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11:56:20 1 Q. Or is it CFM?

11:56:22 2 A. Yes.

11:56:23 3 Q. Do you know what that organization does?

11:56:25 4 A. It's a joint venture between GE Aviation and the United

11:56:30 5 States here in Cincinnati and Safran, near Paris, to make

11:56:34 6 that engine system.

11:56:36 7 Q. Make what engine system, sir?

11:56:38 8 A. The CSF-56.

11:56:41 9 Q. Is that also known as the LEAP-1 engine?

11:56:45 10 A. It is.

11:56:45 11 Q. Okay. And the LEAP-1 engine has polymatrix composite

11:56:51 12 families, correct?

11:56:52 13 A. Polymetric, yeah.

11:56:54 14 Q. Polymetric, I apologize. And polymetric housing for the

11:56:59 15 families, correct? Containment housing?

11:57:00 16 A. Yes.

11:57:01 17 Q. All right. Do you know what the containment housing

11:57:03 18 does, just generally?

11:57:04 19 A. If the fans were to break at any time, it would keep

11:57:09 20 the fan contained. It's a containment case so they wouldn't

11:57:12 21 fly through the fuselage or down the plane or anything like

11:57:15 22 that. It's a safety precaution.

11:57:17 23 Q. And so the use of this technology allows the plane to be

11:57:22 24 lighter and bigger, correct?

11:57:23 25 A. And more fuel efficient, yes.

11:57:25 1 Q. And more fuel efficient, thank you.

11:57:25 2 And it gives it more lift, correct?

11:57:27 3 A. Yes.

11:57:27 4 Q. All right. And I think you also testified that GE is the

11:57:33 5 only one with this technology right now?

11:57:35 6 A. That's accurate.

11:57:37 7 Q. Were you aware that Rolls-Royce just developed an engine

11:57:42 8 with the composite technology for its fan blades and

11:57:44 9 containment housing?

11:57:46 10 A. I know it's under development. I don't know its status

11:57:49 11 as far as flight worthiness.

11:57:51 12 Q. But they have developed a functioning engine. Did you

11:57:54 13 know that?

11:57:54 14 A. Again, I don't know its status, but I know they have

11:57:57 15 research into it.

11:57:58 16 Q. Okay. And they, of course, did not steal that technology

11:58:01 17 from General Electric, did they?

11:58:03 18 A. Not to the best of my knowledge.

11:58:05 19 Q. And were you also aware that by 2017 China was developing

11:58:12 20 some components of a polymetric composite containment housing?

11:58:20 21 Were you aware of that?

11:58:21 22 A. If you're referring to the AECC-1, I have a little

11:58:24 23 knowledge on it but not much.

11:58:25 24 Q. All right. That's fair.

11:58:28 25 MR. McBRIDE: Judge, is this a place we would like

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11:58:30 1 to stop?

11:58:32 2 THE COURT: Sure.

11:58:33 3 MR. McBRIDE: Or do you want me to continue for a
11:58:35 4 few more minutes?

11:58:36 5 THE COURT: A few more minutes. Maybe 12:15.

11:58:39 6 MR. McBRIDE: Yes, sir. I can do that.

11:58:41 7 BY MR. McBRIDE:

11:58:41 8 Q. So I'd like to talk about these relationships between
11:58:48 9 COMAC and AVIC and GE's LEAP-1 engine, okay?

11:58:55 10 You testified a minute ago that CFM International makes
11:58:59 11 engines. It makes the LEAP-1 engine, does it not?

11:59:03 12 A. I believe so, yes.

11:59:05 13 Q. All right. And it's selling those engines to COMAC, is
11:59:10 14 it not?

11:59:10 15 A. I believe so, yes.

11:59:12 16 Q. And those engines are going in China's C919 aircraft,
11:59:19 17 correct?

11:59:19 18 A. Again, yes.

11:59:20 19 Q. All right. And that aircraft is a -- I think it's a mid-
11:59:25 20 sized commercial liner; is that correct?

11:59:27 21 A. It is. It's shockingly similar to the Boeing 737.

11:59:33 22 Q. Well, a number of American companies are helping develop
11:59:37 23 that vehicle, are they not?

11:59:39 24 A. I wouldn't have that knowledge.

11:59:41 25 Q. Okay. All right. So CFM, meaning GE and Safran, are

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11:59:56 1 supplying engines to COMAC, correct?

11:59:58 2 A. Yes.

11:59:58 3 Q. And they are also selling the same composite engines,

12:00:02 4 composite fan blade and containment housing engines around the

12:00:07 5 world, correct?

12:00:07 6 A. That's my understanding, yes.

12:00:09 7 Q. Okay. And GE is providing avionics to the C919, correct?

12:00:16 8 A. Again, to the best of my knowledge, that is correct.

12:00:18 9 Q. All right. And GE is doing that under a JV with AVIC,

12:00:28 10 correct?

12:00:28 11 A. I'm not familiar with that part of it.

12:00:32 12 Q. You did not go that far with it?

12:00:34 13 A. I just don't have -- I am not familiar.

12:00:37 14 Q. You don't know, okay. That's fair.

12:00:40 15 Do you know what GCAT is?

12:00:45 16 A. I do generally, yes.

12:00:47 17 Q. What is it?

12:00:48 18 A. I don't remember the acronym. It's a program where a

12:00:55 19 maintenance crew come from China to the United States, and

12:00:59 20 maybe other countries -- take that back -- other countries

12:01:04 21 that come to the United States that learn how to do

12:01:07 22 specialized maintenance.

12:01:09 23 Q. And that's a joint venture, is it not?

12:01:11 24 A. It's a program. I don't know if it's a joint venture

12:01:14 25 or not.

12:01:15 1 Q. Who's sponsoring the program?

12:01:18 2 A. I believe GE for the versions that I'm aware of.

12:01:22 3 Q. Would you -- is it also like -- well, did you know that

12:01:30 4 GE is working with Aviage and COMAC in that training?

12:01:36 5 A. That sounds close to something I've heard, yes.

12:01:39 6 Q. So you think that might be right?

12:01:44 7 A. It could be.

12:01:44 8 Q. All right. And so you mentioned it's training for

12:01:47 9 mechanics, correct?

12:01:48 10 A. It's my understanding, yes.

12:01:50 11 Q. And does that training include annual seminars?

12:01:53 12 A. Again, it could, yes.

12:01:55 13 Q. Okay. And I think you mentioned that they bring some

12:01:59 14 students in this program to the United States; is that right?

12:02:02 15 A. They do.

12:02:02 16 Q. And they train at GE facilities?

12:02:05 17 A. Yes. They have an off-site, off of the campus, where I

12:02:09 18 think they do it.

12:02:10 19 Q. To your knowledge, is all of the training at GE for these

12:02:15 20 students?

12:02:15 21 A. I'm sorry?

12:02:16 22 Q. To your knowledge, is all the training done at GE for

12:02:19 23 these students?

12:02:20 24 A. I don't know that.

12:02:23 25 Q. I'd like to go back to the investigation if I might.

12:02:56 1 Forgive me for jumping around.

12:02:58 2 I think you told us that Dr. Zheng was not fired after
12:03:05 3 the investigation was commenced; is that right?

12:03:09 4 A. In July of 2017, no, he was not.

12:03:12 5 Q. Okay. When was he fired, do you know?

12:03:15 6 A. It was sometime in 2018, but I don't recall when.

12:03:20 7 Q. Between 2017 and 2018, was Dr. Zheng working at GE?

12:03:29 8 A. He was suspended without pay.

12:03:32 9 Q. Do you know what he's doing right now?

12:03:46 10 A. Generally, I do, yes.

12:03:49 11 Q. What is he doing?

12:03:51 12 A. He's an engineer.

12:04:00 13 Q. When was the first time you met Dr. Zheng?

12:04:06 14 A. November the 1st, 2017.

12:04:09 15 Q. Let's talk about November the 1st, 2017.

12:04:15 16 First, I'd like to talk about a series of meetings that
12:04:19 17 you attended on October 25th, 26th, and 27th, okay?

12:04:24 18 A. Okay.

12:04:24 19 Q. All right. On October 26th, you attended a meeting. Do
12:04:33 20 you recall that?

12:04:33 21 A. That specific meeting, I don't.

12:04:37 22 Q. You don't recall it at all?

12:04:39 23 A. Well, I recall meetings in that time frame. I don't
12:04:42 24 recall the specifics of the October 26th meeting.

12:04:47 25 Q. All right.

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12:04:48 1 MR. McBRIDE: May I approach the witness, Your
12:04:50 2 Honor?

12:04:50 3 THE COURT: For what purpose?

12:04:52 4 MR. McBRIDE: I want to show him one of his
12:04:54 5 documents to refresh his recollection.

12:04:55 6 THE COURT: If it's to refresh his recollection,
12:04:58 7 have you exhausted his recollection?

12:05:03 8 BY MR. McBRIDE:

12:05:03 9 **Q.** Well, so you don't remember anything about that meeting,
12:05:06 10 Agent?

12:05:07 11 THE COURT: You are talking about that meeting that
12:05:10 12 he doesn't recall, you want to refresh his recollection, you
12:05:13 13 may show him a document.

12:05:15 14 MR. McBRIDE: Thank you, Your Honor.

12:05:16 15 THE COURT: And when the time comes, I'm getting
12:05:17 16 more hungry.

12:05:18 17 MR. McBRIDE: I'm sorry, Your Honor?

12:05:20 18 THE COURT: And when the time comes, I'm getting
12:05:23 19 more hungry. You can complete this if you'd like.

12:05:26 20 MR. McBRIDE: Your Honor, if you'd like to break
12:05:28 21 now, this might be a logical place.

12:05:28 22 THE COURT: We're going to break. It's a little
12:05:31 23 after noon. We are going to take a lunch break. During the
12:05:34 24 lunch break, take a break. Eat well. No discussion of the
12:05:37 25 case among yourselves or with anyone else. No independent

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12:05:40 1 research. Continue to keep an open mind. We are going to
12:05:45 2 break for -- we'll come get you at 1:30. Give you a good
12:05:53 3 break.

12:05:53 4 Out of respect for you, we will rise as you leave.

12:05:58 5 THE COURTROOM DEPUTY: All rise for the jury.

12:05:59 6 (Jury out at 12:06 p.m.)

12:06:31 7 THE COURT: The jury's left. We're going to go into
12:06:43 8 recess until 1:30 for the lunch break. Anything before we
12:06:46 9 recess from either side?

12:06:48 10 MR. MANGAN: No, Your Honor.

12:06:49 11 MR. McBRIDE: No, Your Honor.

12:06:50 12 THE COURT: We are in recess until 1:30.

12:06:52 13 THE COURTROOM DEPUTY: This court is in recess until
12:06:54 14 1:30.

12:06:55 15 (Lunch recess from 12:06 p.m. until 1:29 p.m.)

01:29:16 16 THE COURT: We're back in the courtroom. Are we
01:29:20 17 ready for the jury from the defendant's perspective?

01:29:24 18 MR. McBRIDE: Yes, Your Honor.

01:29:24 19 THE COURT: The government?

01:29:25 20 MR. MANGAN: Yes, Your Honor.

01:29:26 21 THE COURT: Let's call for the jury.

01:30:22 22 THE COURTROOM DEPUTY: All rise for the jury.

01:30:25 23 (Jury present at 1:30 p.m.)

01:30:52 24 THE COURT: You may all be seated.

01:30:57 25 The 15 jurors have rejoined us after a lunch break. Good

01:31:02 1 afternoon. Welcome back.

01:31:04 2 We will continue to hear testimony.

01:31:06 3 The witness remains under oath.

01:31:09 4 Mr. McBride, you may proceed.

01:31:21 5 MR. McBRIDE: Thank you, Your Honor.

01:31:23 6 THE COURT: Very well.

01:31:24 7 BY MR. McBRIDE:

01:31:25 8 Q. Agent Hull, we were talking about several meetings that
01:31:28 9 took place in October 25th, 26th, and 27th of 2017, remember?

01:31:40 10 All right. I'd like to ask you, you do remember
01:31:43 11 generally, though, that those meetings took place, correct?

01:31:46 12 A. In general, yes.

01:31:47 13 Q. All right. I'm going to try to be a little more artful
01:31:50 14 about this. I am going to ask you some specific questions
01:31:53 15 about those meetings. If you don't recall, please let me
01:31:58 16 know. I hope that your 302 would refresh your recollection.
01:32:02 17 Okay?

01:32:03 18 So the -- do you recall that the October 25th meeting
01:32:07 19 took place at the GE Aviation Response Center?

01:32:11 20 A. That's when it occurs, sure, likely.

01:32:16 21 Q. Do you know what the GE Aviation Response Center is?

01:32:19 22 A. Yes.

01:32:19 23 Q. What is it?

01:32:22 24 A. It's their emergency command post.

01:32:25 25 Q. So the purpose of the meeting was to evaluate the slides

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01:32:32 1 that Dr. Zheng took to China, correct?

01:32:35 2 **A.** We had meetings about that. If that's the date, that's

01:32:39 3 the date.

01:32:40 4 **Q.** Okay. Would it be helpful for you to take a look at your

01:32:44 5 302?

01:32:45 6 **A.** I wouldn't mind it.

01:32:48 7 MR. McBRIDE: Your Honor, may I show Agent Hull his

01:32:50 8 302?

01:32:52 9 THE COURT: To refresh his recollection?

01:32:55 10 MR. McBRIDE: Yes, Your Honor.

01:32:57 11 THE COURT: Yes.

01:33:23 12 BY MR. McBRIDE:

01:33:23 13 **Q.** Sir, please look up when you're done reviewing it.

01:33:23 14 (Pause.)

01:33:38 15 MR. McBRIDE: May I retrieve that from the witness?

01:33:42 16 THE COURT: Yes.

01:33:54 17 BY MR. McBRIDE:

01:33:56 18 **Q.** Agent Hull, did reviewing your 302 refresh your

01:33:59 19 recollection about those meetings?

01:34:00 20 **A.** It does, although I note I didn't draft that particular

01:34:05 21 302.

01:34:07 22 **Q.** But you signed off on it, did you not?

01:34:09 23 **A.** I did.

01:34:10 24 **Q.** So, again, the purpose of these particular meetings in

01:34:20 25 October were about evaluating Dr. Zheng's presentation to

01:34:27 1 NUAA, correct?

01:34:28 2 A. Yes.

01:34:28 3 Q. And the purpose of the evaluation was to see whether or

01:34:33 4 not it released any GE trade secrets, correct?

01:34:35 5 A. Yes.

01:34:35 6 Q. And a number of GE people assisted you, correct?

01:34:38 7 A. Yes.

01:34:39 8 Q. All right. In that first meeting, I won't go through the

01:34:44 9 names, but there were more GE people than FBI or government

01:34:49 10 people there, correct?

01:34:50 11 A. Yes.

01:34:50 12 Q. And Mr. Mangan and Ms. Glatfelter were present at those

01:34:55 13 meetings, correct?

01:34:55 14 A. They were.

01:34:58 15 Q. All right. The first meeting concluded that there was

01:35:02 16 trade secrets in the documents; is that correct?

01:35:07 17 A. That's my recollection.

01:35:09 18 Q. Okay. Let's move on to the October 26th meeting.

01:35:14 19 So I'm curious, why did another meeting take place based

01:35:19 20 on GE's determination on the 25th?

01:35:22 21 A. I think we ran out of time on the day.

01:35:25 22 Q. I see. So the October 26th meeting was a continuance of

01:35:30 23 the October 25th meeting?

01:35:31 24 A. That's my general recollection.

01:35:33 25 Q. Okay. That's fair. And so at that meeting did it also

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01:35:36 1 take place at the GE Aviation Response Center?

01:35:40 2 A. It did.

01:35:41 3 Q. Okay. And it had the same purpose: to continue to

01:35:46 4 evaluate Dr. Zheng's presentation, correct?

01:35:48 5 A. Yes.

01:35:49 6 Q. All right. And we had a number of GE people present,

01:35:54 7 correct?

01:35:54 8 A. Yes.

01:35:54 9 Q. Ms. Glatfelter, correct?

01:35:58 10 A. Yes.

01:35:58 11 Q. And yourself and Agent Reigle?

01:36:00 12 A. Yes.

01:36:00 13 Q. And Special Agent -- Supervisory Special Agent Murphy,

01:36:05 14 correct?

01:36:05 15 A. Yes.

01:36:06 16 Q. Was he your boss at that time?

01:36:07 17 A. He was.

01:36:08 18 Q. All right. Very good. The result of that second meeting

01:36:18 19 was that there were no trade secrets found on the slides,

01:36:23 20 correct?

01:36:24 21 A. There was a debate.

01:36:25 22 Q. Pardon me?

01:36:26 23 A. There was a debate within the company about that.

01:36:27 24 Q. There was a debate. So it was uncertain among the

01:36:30 25 experts at GE whether or not there were any trade secrets,

01:36:36 1 correct?

01:36:36 2 A. That was the contention.

01:36:37 3 Q. So you also submitted an affidavit in support of a search
01:36:40 4 warrant for Dr. Zheng's house and some other items on that
01:36:43 5 same day, did you not?

01:36:44 6 A. I probably did, yes.

01:36:46 7 Q. All right. In that search warrant, do you remember
01:36:52 8 addressing whether or not Dr. Zheng had released trade
01:36:58 9 secrets?

01:36:58 10 A. I don't recollect specifically, but it was in the --
01:37:01 11 there was information within the affidavit about that.

01:37:04 12 Q. All right, then on the October 27th meeting, the next
01:37:08 13 day, it also took place at the GE Aviation Response Center,
01:37:12 14 correct?

01:37:12 15 A. Yes.

01:37:13 16 Q. And, again, you were seeking the advice of the GE
01:37:16 17 experts, correct?

01:37:17 18 A. Yes.

01:37:17 19 Q. All right. And the purpose of seeking that advice was to
01:37:21 20 determine whether or not Dr. Zheng released any trade secret
01:37:28 21 information, correct?

01:37:29 22 A. Whether the material he had taken with him to China
01:37:33 23 contained trade secret material or not.

01:37:35 24 Q. I'm sorry. I couldn't hear you, sir.

01:37:36 25 A. To determine whether or not the information he took to

01:37:39 1 China contained trade secret, not whether he released it or
01:37:42 2 not.

01:37:42 3 **Q.** Very good. I appreciate that clarification.

01:37:45 4 And the conclusion of that meeting was that there were no
01:37:50 5 trade secrets taken to China and presented in that slide show
01:37:54 6 by Dr. Zheng, correct?

01:37:57 7 **A.** My recollection was that the slides were of less
01:38:01 8 concern than the original documents.

01:38:04 9 **Q.** Than the what documentation?

01:38:05 10 **A.** The original documentation that he took.

01:38:07 11 **Q.** But that original documentation was never shown to the
01:38:11 12 students at NUAA, was it?

01:38:13 13 **A.** Not to the best of my knowledge.

01:38:14 14 **Q.** Okay. Did you ever go back and clarify with the
01:38:21 15 magistrate judge that the consensus of GE was that no trade
01:38:28 16 secrets were ever revealed? By Dr. Zheng?

01:38:31 17 **A.** With that particular affidavit, I did not.

01:38:34 18 **Q.** Okay. So it seems to me that the next major step in your
01:38:43 19 investigation was executing the search warrants and
01:38:47 20 interviewing Dr. Zheng; is that correct?

01:38:49 21 **A.** Yes.

01:38:49 22 **Q.** So at this point did you focus on Dr. Zheng as a possible
01:38:57 23 insider threat to GE?

01:38:59 24 **A.** I wouldn't say "focus," but, yes, that was one of the
01:39:03 25 pieces we were looking at, yes.

01:39:05 1 Q. That's something you wanted to ferret out in your
01:39:09 2 investigation, correct?

01:39:10 3 A. Yes.

01:39:11 4 Q. Okay. So you obtained lawful search warrants for
01:39:19 5 Mr. Zheng's house, correct?

01:39:20 6 A. Yes.

01:39:21 7 Q. And his phone, correct?

01:39:22 8 A. Yes.

01:39:22 9 Q. And his car, correct?

01:39:24 10 A. Yes.

01:39:25 11 Q. Is that it?

01:39:26 12 A. For November 1st, that sounds like about all.

01:39:31 13 Q. Was it also -- also his computers in the house, correct?

01:39:35 14 A. Yes.

01:39:36 15 Q. Very good. And you also interviewed Dr. Zheng at GE,
01:39:42 16 correct?

01:39:42 17 A. I did.

01:39:43 18 Q. So explain the sequence of the execution of the search
01:39:48 19 warrants and your interview of Dr. Zheng.

01:39:51 20 A. It was early afternoon, was my recollection. GE
01:39:56 21 requested to speak with him first so they could go through
01:39:59 22 their corporate inquiry. And once the FBI interview began,
01:40:05 23 we began executing the search warrants at the home.

01:40:07 24 Q. And did you simultaneously interview Dr. Zheng?

01:40:12 25 A. Yes.

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01:40:13 1 Q. So -- and you and Special Agent Reigle interviewed
01:40:18 2 Dr. Zheng, correct?

01:40:18 3 A. We did.

01:40:19 4 Q. All right. You just mentioned that GE wanted to talk to
01:40:22 5 Dr. Zheng first. Were you present when GE spoke to them?

01:40:26 6 A. No.

01:40:27 7 Q. Do you know what GE spoke to Dr. Zheng about?

01:40:30 8 A. After the fact.

01:40:31 9 Q. What did they speak to Dr. Zheng about?

01:40:34 10 A. What he had done with any information he may have
01:40:37 11 collected in violation of company policy.

01:40:40 12 Q. So they were asking a question of whether he violated
01:40:44 13 company policy by releasing this information?

01:40:46 14 A. Yes.

01:40:46 15 Q. All right. But you didn't participate in those
01:40:49 16 questionings at that time?

01:40:49 17 A. I did not.

01:40:50 18 Q. All right. So what time did your interview of Dr. Zheng
01:40:57 19 start?

01:40:57 20 A. It was early afternoon. Post lunch.

01:41:04 21 Q. When did it end?

01:41:05 22 A. Early evening.

01:41:07 23 Q. The interview was recorded, was it not?

01:41:10 24 A. It was.

01:41:10 25 Q. Did Dr. Zheng know it was being recorded?

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01:41:13 1 A. He did not.

01:41:14 2 Q. In fact, it was in -- the mic was in Agent Reigle's

01:41:18 3 jacket, wasn't it?

01:41:19 4 A. In his shirt pocket.

01:41:21 5 Q. Shirt pocket. Why didn't you tell Dr. Zheng you were

01:41:24 6 recording him?

01:41:27 7 A. We are not obligated to tell him.

01:41:31 8 Q. I understand that, but why didn't you?

01:41:31 9 A. Not part of our policy.

01:41:33 10 Q. So I noticed in the transcript that you told Dr. Zheng he

01:41:46 11 was free to leave after the interview; is that right?

01:41:51 12 A. It is.

01:41:52 13 Q. Because, of course, this wasn't a custodial

01:41:58 14 interrogation, was it?

01:41:59 15 A. No, it wasn't. It was a non-custodial interview.

01:42:02 16 Q. And so as a result of that you didn't have to read him

01:42:05 17 his *Miranda* rights, did you?

01:42:08 18 A. No.

01:42:08 19 Q. All right. I'd like to ask you about the practical

01:42:11 20 reality of that. At the time Dr. Zheng was undergoing a seven

01:42:19 21 and a -- seven hour, fifteen minutes interview with you and

01:42:22 22 Agent Reigle?

01:42:22 23 A. Ballpark, sure.

01:42:25 24 Q. And during the interview, you took his car out of the lot

01:42:31 25 to be searched, right?

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01:42:33 1 A. He did not know that for the majority of the interview.

01:42:36 2 Q. No, but you took it out. He couldn't access his car if

01:42:40 3 he got up and left, could he.

01:42:42 4 A. We seized it pursuant to legal process.

01:42:44 5 Q. I'm not arguing that. What I am saying to you is, if

01:42:48 6 Dr. Zheng said to you early in the conversation, "You know

01:42:50 7 what? I'm going to leave," he didn't have a car in the

01:42:53 8 parking lot, did he?

01:42:54 9 A. He did not, but he could still leave.

01:42:58 10 Q. And he didn't have access to his phone, did he?

01:43:01 11 A. He did not.

01:43:02 12 Q. In fact, you asked -- he asked to call his wife, did he

01:43:07 13 not?

01:43:07 14 A. He did.

01:43:08 15 Q. And you required him to call his wife on, I believe,

01:43:13 16 agent's -- Agent Reigle's cell phone, right?

01:43:16 17 A. One of the phones we had in the room, yes.

01:43:18 18 Q. One of the phones you had in the room. And you required

01:43:20 19 that he have it on speaker when he spoke to his wife, correct?

01:43:24 20 A. I asked that he did, yes.

01:43:26 21 Q. And you required that he speak in English, correct?

01:43:31 22 A. I asked that he did, yes.

01:43:32 23 Q. And, of course, he did, correct?

01:43:34 24 A. He did.

01:43:35 25 Q. All right. And while that interview was going on, the

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01:43:40 1 FBI was searching his home, correct?

01:43:43 2 A. Yes.

01:43:43 3 Q. What items did you seize from his house?

01:43:47 4 A. I don't remember the entire inventory. It was mostly

01:43:50 5 electronic media, the business card that we referenced

01:43:54 6 repeatedly.

01:43:56 7 Q. Bear with me a moment, sir. All right.

01:44:04 8 You also wouldn't allow Dr. Zheng to leave your sight,

01:44:10 9 would you, during the interview?

01:44:12 10 A. I don't know what you mean by that. We were in the

01:44:18 11 room together.

01:44:18 12 Q. Well, at some point Mr. Zheng wanted to go to the

01:44:22 13 bathroom, didn't he?

01:44:24 14 A. Oh, yeah, he went to the bathroom.

01:44:26 15 Q. And Agent Reigle followed him into the bathroom, didn't

01:44:30 16 he?

01:44:30 17 A. I believe Agent Reigle also used the bathroom.

01:44:33 18 Q. So the answer is "yes."

01:44:35 19 THE COURT: Is that a question?

01:44:38 20 MR. McBRIDE: I'm sorry.

01:44:39 21 BY MR. McBRIDE:

01:44:39 22 Q. So your answer is "yes"?

01:44:40 23 A. Agent Reigle used the bathroom as well.

01:44:43 24 Q. And Agent Reigle had the recorder going while both

01:44:47 25 gentlemen were in the restroom, correct?

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01:44:48 1 A. That could be, yes.

01:44:50 2 Q. Well, you've listened to the recording, have you not?

01:44:55 3 A. Actually, I never have. I've only read the transcript.

01:44:59 4 Q. And Dr. Zheng insisted in the beginning that he did not

01:45:08 5 release any trade secrets, didn't he?

01:45:10 6 A. He made statements to that effect.

01:45:12 7 Q. And then by the end, you had convinced him that he had

01:45:17 8 released trade secrets, did you not?

01:45:19 9 A. That was a statement that he had made.

01:45:21 10 Q. Say again?

01:45:22 11 A. That's a statement he had made.

01:45:26 12 Q. After -- at the end of the seven-hour interrogation,

01:45:29 13 correct?

01:45:29 14 A. It was an interview.

01:45:30 15 Q. Pardon me. Interview. After the end of the seven-hour

01:45:33 16 interview?

01:45:34 17 A. Yes.

01:45:35 18 Q. But you knew at that point that the slide presentation

01:45:42 19 did not release any trade secrets from GE, did you not?

01:45:47 20 A. Again, we also dove into the details of the documents

01:45:50 21 he took with him, and that was still up for debate.

01:45:55 22 Q. Right. But you got him to admit in your interview that

01:46:02 23 he had released trade secrets, didn't you?

01:46:04 24 A. He thought he had.

01:46:05 25 Q. And you led him to that point, did you not?

01:46:07 1 A. All the information pointed to that from the material
01:46:10 2 that he took.

01:46:10 3 Q. Except for the fact that you knew by talking to the GE
01:46:15 4 folks on October 27th that he had not released trade secrets,
01:46:20 5 did you not?

01:46:20 6 A. Again, we were not investigating the release
01:46:22 7 exclusively. We were trying to determine if the
01:46:26 8 documentation he took to make the slides in the PowerPoint
01:46:29 9 was or was not.

01:46:29 10 Q. Then what was the point of interviewing about the slides?

01:46:32 11 A. Because that's the bit that we knew had likely been
01:46:34 12 released. We were trying to determine if anything else had
01:46:38 13 also been released.

01:46:39 14 Q. But you already knew that there were no trade secrets in
01:46:42 15 the materials he had released; yes?

01:46:46 16 A. Again, still under discussion with GE, but, yes.

01:46:49 17 Q. GE came back and told you there was no trade secrets
01:46:57 18 released in those power slides, did they not?

01:47:00 19 A. Different engineers gave different opinions, so it
01:47:04 20 varied.

01:47:05 21 Q. Well, you haven't charged him with releasing trade
01:47:10 22 secrets, have you?

01:47:10 23 A. The FBI doesn't charge people. The Department of
01:47:14 24 Justice does.

01:47:14 25 Q. He is on trial for conspiracy here, correct?

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01:47:17 1 A. Who is?

01:47:19 2 Q. Mr. Xu is on trial for conspiracy to steal trade secrets,

01:47:25 3 correct?

01:47:26 4 A. He is.

01:47:26 5 Q. Because Mr. Xu -- Mr. Zheng never released any trade

01:47:33 6 secrets, correct?

01:47:33 7 A. I'm uncertain.

01:47:36 8 Q. That's fair.

01:47:44 9 All right. I'm going to switch topics a little bit with

01:47:48 10 some of the investigation.

01:47:54 11 MR. McBRIDE: Your Honor, may I publish to the jury

01:47:57 12 Government's Exhibit 60b? I believe it's been admitted.

01:48:00 13 THE COURT: You may publish it.

01:48:03 14 MR. McBRIDE: Paul, can we put up that exhibit?

01:48:05 15 Please show the first page.

01:48:17 16 BY MR. McBRIDE:

01:48:17 17 Q. Do you have the exhibit in front of you, sir?

01:48:19 18 A. I do.

01:48:19 19 Q. Do the exhibits show up on your screen there?

01:48:22 20 A. It does.

01:48:23 21 Q. Is that Government Exhibit 60b?

01:48:27 22 A. It is, yes.

01:48:32 23 MR. McBRIDE: Can we see page 7, sir.

01:48:32 24 BY MR. McBRIDE:

01:48:52 25 Q. So I believe you testified earlier that you believed --

01:48:56 1 strike that. How did Chen Meng find Dr. Zheng?

01:49:04 2 A. On LinkedIn.

01:49:07 3 Q. LinkedIn is a legal platform, isn't it? There is nothing

01:49:13 4 illegal about it, correct?

01:49:14 5 A. No.

01:49:14 6 Q. What's its purpose?

01:49:15 7 A. It's to connect people in the business world.

01:49:17 8 Q. And many people have LinkedIn addresses or LinkedIn

01:49:22 9 profiles, do they not?

01:49:25 10 A. I imagine they do.

01:49:25 11 Q. And on it they list their professional credentials, do

01:49:27 12 they not?

01:49:28 13 A. Some do.

01:49:29 14 Q. Many do, correct?

01:49:30 15 A. Yes.

01:49:31 16 Q. Because it is, of course, as you just said, for

01:49:35 17 professionals to meet each other or to link up, correct?

01:49:39 18 A. Yes.

01:49:40 19 Q. So Chen Feng found Dr. Zheng on Linked-In and then opened

01:49:54 20 a communication with him, correct?

01:49:56 21 A. The individual utilizing the jeremy@nuaa.edu.cn, I

01:50:01 22 believe did, which I do not believe was Chen Feng.

01:50:05 23 Q. So you don't know who sent the email, this

01:50:09 24 jeremynuaa@edu.cn email, correct?

01:50:15 25 A. I do not.

01:50:16 1 Q. In fact, you don't know who sent it, do you?

01:50:19 2 A. I do not.

01:50:20 3 Q. Of course, you weren't there with -- with whoever sent

01:50:24 4 this at the time it was sent, were you?

01:50:26 5 A. No.

01:50:26 6 Q. Because they are in China presumably, correct?

01:50:30 7 A. Yes.

01:50:31 8 Q. All right. Would you -- so this email or -- this email

01:50:39 9 seems to be about an itinerary that has been finalized; is

01:50:45 10 that fair?

01:50:45 11 A. It is.

01:50:46 12 Q. Will you go back and will you read the middle paragraph,

01:50:50 13 please?

01:50:51 14 A. "I will go back to my alma mater in Harbin first, then

01:50:56 15 I will go back to my own hometown in Anhui. I can come to

01:51:00 16 NUAA to do an exchange on June 1st or 2nd. I am wondering

01:51:03 17 about your schedule and arrangements for these two days."

01:51:07 18 Q. The reference to "my alma mater Harbin" -- "my alma mater

01:51:14 19 Harbin," do you know what that is?

01:51:15 20 A. Yes. That's a university in Harbin. It's in northeast

01:51:19 21 China.

01:51:19 22 Q. Do you know what kind of university it is?

01:51:21 23 A. It's an engineering one, to the best of my

01:51:23 24 recollection.

01:51:23 25 Q. So you heard Dr. Mulvenon testify about the Seven Sons?

01:51:29 1 A. Yes.

01:51:29 2 Q. What was your understanding of the Seven Sons?

01:51:30 3 A. It's major universities that are responsible for the R
01:51:34 4 and D or the teaching of the field of R and D for PRC.

01:51:38 5 Q. Do you know that Harbin University is one of the Seven
01:51:38 6 Sons?

01:51:41 7 A. I do.

01:51:41 8 Q. So General Electric hired an engineer from one of the
01:51:57 9 Seven Sons university to be an engineer on an important
01:52:00 10 project; is that right?

01:52:02 11 A. I imagine they hire people from lots of universities.

01:52:08 12 MR. McBRIDE: Could we remove that one, Paul. And
01:52:13 13 could we go to 60 Bravo, page 18.

01:52:27 14 BY MR. McBRIDE:

01:52:42 15 Q. Would you -- this is from whoever is representing himself
01:52:46 16 to be Chen Feng, is it not?

01:52:48 17 A. It is.

01:52:49 18 Q. All right. And earlier there was an email or a WeChat
01:52:56 19 from Dr. Zheng to whoever is Chen Feng saying I have to follow
01:53:09 20 company policy, or words of that effect, correct?

01:53:09 21 A. I don't think that date is accurate. I don't think
01:53:13 22 they are using LinkedIn on May the 18th. I think that
01:53:16 23 happened later.

01:53:18 24 Q. Okay. All right. Will you read after "How are you,"
01:53:25 25 that first paragraph.

01:53:26 1 A. "Regarding the content of the exchange, we fully
01:53:30 2 respect your opinions, and will only discuss general topics
01:53:33 3 in the area of engine materials that will not violate your
01:53:37 4 company's technical agreement requirements."
01:53:40 5 Q. Thank you.
01:53:52 6 I think you testified earlier -- correct me if I'm
01:53:55 7 wrong -- that when Dr. Zheng went and spoke at NUAA, his
01:53:59 8 travel and lodging was paid for by NUAA or someone, correct?
01:54:04 9 A. Yes.
01:54:04 10 Q. Is that unusual?
01:54:07 11 A. It's a little unusual.
01:54:09 12 Q. It's unusual, in your opinion, for somebody to travel to
01:54:13 13 give a lecture and not get travel expenses?
01:54:16 14 A. I was in academia for ten years and no one ever paid to
01:54:22 15 have me come speak.
01:54:23 16 Q. How many academic speeches did you give?
01:54:26 17 A. Probably a dozen.
01:54:28 18 Q. You also found that after that trip Dr. Zheng came home
01:54:34 19 with about \$20,000, didn't he?
01:54:36 20 A. 16,100.
01:54:39 21 Q. Thank you. Where did that money come from?
01:54:42 22 A. I don't know.
01:54:43 23 Q. It didn't come from NUAA, did it?
01:54:48 24 A. A portion of it did.
01:54:49 25 Q. Well, the portion that was his travel and lodging,

01:54:53 1 correct?

01:54:54 2 A. Plus a honorarium, or a gift.

01:54:56 3 Q. And Dr. Zheng cleared that money when he came through the

01:55:01 4 United States customs, didn't he?

01:55:02 5 A. It was found during a secondary inspection.

01:55:05 6 Q. He declared the money, didn't he?

01:55:07 7 A. It was found during a secondary inspection.

01:55:09 8 Q. So did he declare it or not at the -- in the airport?

01:55:12 9 A. I don't recall.

01:55:13 10 Q. You don't know. Okay. Would you be surprised if he did?

01:55:17 11 A. I would not.

01:55:19 12 Q. Would you be surprised if that money came from an account

01:55:25 13 he has back in China?

01:55:27 14 A. That is not what he told me.

01:55:29 15 Q. What did he tell you?

01:55:30 16 A. That roughly \$3,500 of it was material provided by the

01:55:36 17 defendant, and the rest was a loan payback from a family

01:55:41 18 member.

01:55:41 19 Q. I'm sorry. I didn't catch that.

01:55:44 20 A. It was a loan payback from a family member.

01:55:49 21 Q. It was a loan payback from a family member. And you have

01:55:51 22 no reason to dispute that, do you?

01:55:53 23 A. No.

01:55:53 24 Q. So at some point in your investigation, you stopped

01:56:00 25 focusing on Dr. Cheng as a target, correct?

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01:56:04 1 A. Do you mean Dr. Zheng?

01:56:06 2 Q. Dr. Zheng.

01:56:08 3 A. We conducted an operational pivot.

01:56:12 4 Q. Which means he was no longer a target, correct?

01:56:14 5 A. He was cooperating.

01:56:18 6 Q. Right. He went from a target to a cooperator, correct?

01:56:21 7 A. He did.

01:56:22 8 Q. And what is a cooperator?

01:56:29 9 A. Someone who assists the FBI with investigations.

01:56:33 10 Q. All right. And so Dr. Chang now became somebody to

01:56:38 11 assist you in your investigation further, correct?

01:56:42 12 A. Yes.

01:56:43 13 Q. All right. And you were furthering that investigation

01:56:46 14 because you didn't have a case against Dr. Zheng anymore,

01:56:50 15 didn't you?

01:56:50 16 A. I don't make a determination on prosecution.

01:56:54 17 Q. I wasn't asking that question.

01:56:57 18 FBI agents conduct their investigations and then make a

01:57:01 19 recommendation to the prosecution. Your investigation with

01:57:04 20 Dr. Cheng had gone about as far as they could, didn't they?

01:57:07 21 A. Again, his name is Zheng. And it could have gone into

01:57:13 22 another path, but we picked this path.

01:57:16 23 Q. So you left the path of Dr. Zheng being a target,

01:57:21 24 correct?

01:57:21 25 A. We conducted an operational pivot.

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01:57:26 1 Q. And then he became a cooperator, correct?

01:57:30 2 A. Yes.

01:57:30 3 Q. How much time passed between Dr. Zheng returning from
01:57:43 4 China to the first reach-out as a cooperating -- as a
01:57:50 5 cooperator to Chen Feng?

01:57:54 6 A. The last contact I recall via WeChat was May.
01:58:00 7 Recontact was established in November. Excuse me -- June.
01:58:06 8 June of '17 and November of '17.

01:58:16 9 Q. And you through Dr. Zheng initiated that contact, didn't
01:58:21 10 you?

01:58:21 11 A. I did.

01:58:23 12 MR. McBRIDE: Your Honor, may we publish to the jury
01:58:25 13 and the witness Government Exhibit 67c, which I believe has
01:58:30 14 been admitted into evidence.

01:58:31 15 THE COURT: Any objection?

01:58:33 16 MR. MANGAN: No, Your Honor.

01:58:34 17 THE COURT: Yes.

01:58:44 18 MR. McBRIDE: Paul, could we see 67c?

01:58:48 19 Could we focus on the very top of page 1.

01:58:50 20 BY MR. McBRIDE:

01:58:51 21 Q. Agent, do you see that?

01:58:52 22 A. I do.

01:58:53 23 Q. WeChat? Very top line I am going to ask you about.

01:58:56 24 Is that your first reach-out to Chen Feng?

01:59:01 25 A. Yes.

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01:59:02 1 Q. And that's dated November 21, 2017, correct?

01:59:08 2 A. It is.

01:59:09 3 Q. All right. Thank you.

01:59:16 4 MR. McBRIDE: Could we see page 3, Paul.

01:59:19 5 BY MR. McBRIDE:

01:59:19 6 Q. And Chen Feng responded to this, did he not?

01:59:25 7 A. He did.

01:59:27 8 Q. At the top of page 3, would you read the first green box?

01:59:35 9 A. "Hi, Teacher Chen. I am thinking about going back

01:59:39 10 during early February, probably a week before New Year. But

01:59:43 11 I know the plane tickets are relatively expensive during

01:59:46 12 that time, so I haven't pulled the trigger."

01:59:49 13 Q. So is this your second reach-out to Chen Feng?

01:59:52 14 A. It's the second message we sent after he responded.

02:00:05 15 Q. That's fair. Thank you.

02:00:07 16 MR. McBRIDE: Could we move down a page, Paul.

02:00:24 17 BY MR. McBRIDE:

02:00:24 18 Q. All right. Would you read that white box?

02:00:28 19 A. "Hello, Teacher. The school is on break during the end

02:00:31 20 of the year, and it is rather difficult to process the

02:00:34 21 financial matters. I discussed this with Mr. Qu from the

02:00:38 22 Province Science and Technology Association several days

02:00:41 23 ago. They will be in charge to work on your China traveling

02:00:44 24 expenses."

02:00:45 25 Q. So Chen Feng suggested Mr. Qu; is that correct?

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02:00:57 1 A. He did.

02:00:57 2 Q. You had no reason not to believe the school was on break

02:01:02 3 during that time, do you?

02:01:03 4 A. No. It was Chinese New Year. I anticipated it would

02:01:07 5 be.

02:01:07 6 Q. So it's logical that NUAA may not want Dr. Zheng to come

02:01:11 7 and lecture, is it not?

02:01:13 8 A. It is.

02:01:14 9 Q. All right. And it's also logical that they might hand

02:01:18 10 off Dr. Zheng's request to lecture to somebody else, correct?

02:01:25 11 A. It is.

02:01:26 12 Q. And Dr. Zheng had met Qu Hui at that -- earlier when he

02:01:36 13 lectured, correct?

02:01:37 14 A. You mean your client? Yes.

02:01:39 15 Q. Well, Qu Hui, whoever that is, correct?

02:01:42 16 A. Yes.

02:01:45 17 Q. And then because Qu Hui represented himself as working

02:01:51 18 for JAST, correct?

02:01:52 19 A. Yes.

02:01:53 20 Q. And would you tell us again what JAST is?

02:01:55 21 A. Jiangsu Association For Science and Technology.

02:02:00 22 Q. And do you know what they do?

02:02:00 23 A. Generally, yes.

02:02:01 24 Q. What do they do generally?

02:02:03 25 A. It's an arm of the Chinese Academy of Science and

02:02:08 1 Technology, and they do outreach to try to build

02:02:12 2 relationships within businesses.

02:02:13 3 Q. Have you researched at all NUAA?

02:02:21 4 A. A little bit.

02:02:23 5 Q. I just want to ask you some questions about it, if I

02:02:28 6 might.

02:02:31 7 Would you agree with me that it's one of Chinese --

02:02:36 8 pardon me. Wrong one. I don't want to go to JAST. I was

02:02:39 9 asking about NUAA, and I don't want to go there yet.

02:02:43 10 All right. In your research, did you find that JAST was

02:02:49 11 founded in 1959?

02:02:50 12 A. I did not.

02:02:53 13 Q. Did you find that it consists of 13 province-governed

02:02:59 14 associations for science and technology? Did you find that?

02:03:02 15 A. I did not.

02:03:03 16 Q. Did you find that it has 209,000 members?

02:03:08 17 A. Not that specific number, no.

02:03:10 18 Q. But you knew it had a lot of members, right?

02:03:12 19 A. It did.

02:03:13 20 Q. All right. You told us that it was about academic

02:03:18 21 exchanges, correct?

02:03:19 22 A. Among other things.

02:03:22 23 Q. All right. Did you find out what its objectives were?

02:03:26 24 A. Only what they have online.

02:03:29 25 Q. Online?

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02:03:30 1 A. Um-hmm.

02:03:31 2 Q. Okay. And they have online "to promote academic

02:03:37 3 exchanges," correct?

02:03:38 4 A. Again, amongst other things, yes.

02:03:40 5 Q. "Sponsor seminars," correct?

02:03:43 6 A. Yes.

02:03:43 7 Q. "Enliven academic ideas," correct?

02:03:44 8 A. Yes.

02:03:44 9 Q. "Develop disciplines," correct?

02:03:47 10 A. Yes.

02:03:47 11 Q. "Upgrade the standard of science and technology,"

02:03:50 12 correct?

02:03:50 13 A. Yes.

02:03:50 14 Q. And "accelerate economic development and social

02:03:55 15 progress," correct?

02:03:55 16 A. Yes.

02:03:56 17 Q. All right. Did you also learn that it has a number of

02:04:00 18 joint ventures in America?

02:04:02 19 A. JAST does?

02:04:03 20 Q. Um-hmm.

02:04:04 21 A. I was not aware of that.

02:04:06 22 Q. Well, you are aware that the University of Michigan had

02:04:13 23 an exchange with JAST, did you not?

02:04:15 24 A. I was not.

02:04:17 25 Q. You didn't invest -- you didn't interview a woman named

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02:04:26 1 Sun.

02:04:26 2 A. I did do that, yes. She wasn't from JAST.

02:04:28 3 Q. Pardon me?

02:04:29 4 A. She wasn't from JAST. She was from NUAA.

02:04:31 5 Q. Okay. My apologies, but thank you.

02:04:44 6 May I ask, when you were using Dr. Zheng as a cooperator,

02:04:50 7 did you take his phone?

02:04:52 8 A. Did I take his phone?

02:04:55 9 Q. Yes.

02:04:56 10 A. We had already seized his phone pursuant to the search

02:04:59 11 warrant.

02:04:59 12 Q. All right. But you kept the phone?

02:05:00 13 A. We did.

02:05:00 14 Q. And the purpose in keeping the phone was to disguise the

02:05:04 15 fact that Zheng was now a cooperator, correct?

02:05:09 16 A. The purpose of keeping the phone was because it was

02:05:12 17 evidence.

02:05:12 18 Q. Okay. But you used that phone to make your contacts with

02:05:17 19 Chen Feng and Qu Hui -- Qu Hui, correct?

02:05:21 20 A. No, we did not.

02:05:21 21 Q. What phone did you use?

02:05:23 22 A. We used an old FBI phone that we rooted.

02:05:30 23 Q. Why did you do that?

02:05:31 24 A. Because we didn't want to change the evidence that we

02:05:34 25 had seized within the phone itself.

02:05:35 1 Q. So why is it the MSS didn't detect that you were using a
02:05:40 2 different phone?

02:05:41 3 A. Because we side-loaded the app into it.

02:05:45 4 Q. What does that mean?

02:05:46 5 A. We hard-loaded the app into the phone so it looked
02:05:49 6 exactly like the app that had been on Dr. Zheng's phone.

02:05:52 7 Q. And the purpose was to conceal the fact that Dr. Zheng is
02:05:55 8 now working with the FBI, correct?

02:05:56 9 A. Yes.

02:05:57 10 Q. All right. You testified earlier that you essentially
02:06:11 11 authored the messages sent to Qu Hui, correct?

02:06:19 12 A. I did. I gave the direction of the statements, and
02:06:22 13 then they were translated.

02:06:23 14 Q. You gave the direction of the statement to a FBI
02:06:27 15 translator, correct?

02:06:28 16 A. I did.

02:06:28 17 Q. And then you watched as Dr. Zheng typed them into the
02:06:33 18 phone; is that right?

02:06:34 19 A. On some instances, yes.

02:06:36 20 Q. Other instances, who typed them in?

02:06:38 21 A. He did.

02:06:39 22 Q. Okay. So on all instances, Dr. Zheng typed them in?

02:06:42 23 A. Yes.

02:06:43 24 Q. So I'm interested in your initial -- I am going to ask
02:06:46 25 you some questions about your initial drafting of these

02:06:50 1 messages.

02:06:51 2 Did you draft them by yourself?

02:06:53 3 A. I talked to people in my team to do it.

02:06:58 4 Q. So you got input from your team, correct?

02:07:00 5 A. I did.

02:07:01 6 Q. So these weren't just your words, correct?

02:07:03 7 A. No. But the ultimate decision of the words was mine.

02:07:07 8 Q. What kind of input did you get?

02:07:11 9 A. All kinds.

02:07:11 10 Q. Give me an example.

02:07:13 11 A. An analyst would give me an opinion, and I would adjust

02:07:16 12 it. A linguist would tell me something I was asking for was

02:07:21 13 not culturally appropriate, so we would adjust it.

02:07:24 14 Q. Is that how you came to use the word "filial piety"?

02:07:28 15 A. Yes.

02:07:44 16 Q. And so what was the purpose of these messages that you

02:07:48 17 were sending to Qu Hui.

02:07:49 18 A. We tried to identify the individual on the other end.

02:07:53 19 Q. You didn't think at that time it was Mr. Xu?

02:07:58 20 A. We thought it was.

02:07:59 21 Q. But you didn't know?

02:08:00 22 A. We didn't know.

02:08:01 23 Q. All right. Just like you didn't know who was

02:08:05 24 representing themselves as Chen Feng, correct?

02:08:08 25 A. Correct.

02:08:10 1 Q. And, again, because you are not sitting there. It makes
02:08:11 2 perfect sense, does it not?

02:08:12 3 A. It does.

02:08:15 4 THE COURT: At the appropriate time, we need to take
02:08:17 5 a break.

02:08:19 6 MR. McBRIDE: Your Honor, that would be fine, Your
02:08:21 7 Honor.

02:08:21 8 THE COURT: Very well. Ladies and gentlemen, we are
02:08:22 9 going to give you another break, 20 minutes till 1:30 [sic].
02:08:26 10 During the break, take a break. Don't discuss the case among
02:08:29 11 yourselves or with anyone else. No independent research.
02:08:32 12 Continue to keep an open mind.

02:08:33 13 We'll rise out of respect for you as you leave.

02:08:36 14 THE COURTROOM DEPUTY: All rise for the jury.

02:08:38 15 (Jury out at 2:08 p.m.)

02:09:21 16 THE COURT: We're in recess for 20 minutes unless
02:09:24 17 there is anything else?

02:09:26 18 MR. MANGAN: No, Your Honor.

02:09:27 19 THE COURT: See you at 1:30.

02:09:29 20 THE COURTROOM DEPUTY: This court is in recess until
02:09:31 21 1:30.

02:09:32 22 (Recess from 2:09 p.m. until 2:29 p.m.)

02:29:52 23 THE COURT: We're back in the open courtroom. The
02:29:56 24 jury's not here. Are we ready to proceed from the
02:29:59 25 government's perspective?

02:30:01 1 MR. MANGAN: Yes, Your Honor.

02:30:02 2 THE COURT: You ready, Mr. McBride?

02:30:05 3 MR. McBRIDE: Yes, Your Honor.

02:30:06 4 THE COURT: Before we get the jury, I wish to make a

02:30:11 5 statement in the spirit of full disclosure.

02:30:15 6 Mr. McBride, I gave you a lot of latitude in your

02:30:18 7 cross-examination so far. The government has not objected.

02:30:22 8 But I want to be clear that it is irrelevant to the charges in

02:30:26 9 this case whether the information defendant allegedly sought

02:30:32 10 was, A, successfully stolen, B, classified information, or, C,

02:30:40 11 an actual trade secret.

02:30:45 12 Defendant is charged with conspiracy and attempt.

02:30:47 13 Therefore, the fact that no information was stolen, if that's

02:30:50 14 where we are, is irrelevant; and, additionally, the

02:30:54 15 information neither needed to be classified, nor did it have

02:30:58 16 to be an actual trade secret. A finding of guilty for

02:31:03 17 conspiracy or attempt merely requires an agreement to steal or

02:31:11 18 attempt to steal what defendant believes to be a trade secret.

02:31:14 19 I wanted to say that to you outside the presence of the

02:31:17 20 jury, because if we go down that road, that's going to be the

02:31:21 21 instruction to the jury in your presence. Understood?

02:31:26 22 MR. McBRIDE: Yes, sir.

02:31:27 23 THE COURT: Very well. You ready for the jury?

02:31:31 24 MR. McBRIDE: Yes, sir.

02:31:31 25 THE COURT: Let's call for the jury.

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02:32:19 1 THE COURTROOM DEPUTY: All rise for the jury.

02:32:22 2 (Jury in at 2:32 p.m.)

02:32:50 3 THE COURT: You may all be seated. Thank you.

02:32:56 4 15 jurors have arrived back from break. We will continue

02:33:01 5 hearing testimony.

02:33:03 6 You may proceed, Mr. McBride.

02:33:05 7 MR. McBRIDE: Thank you, Your Honor.

02:33:06 8 THE COURT: Very well.

02:33:12 9 BY MR. McBRIDE:

02:33:18 10 Q. Agent Hull, we were talking about Dr. Zheng's cooperation

02:33:25 11 with you in your investigation, were we not?

02:33:29 12 A. We were.

02:33:30 13 Q. All right. I'd like to look at some of the -- and I want

02:33:35 14 to look at some of the messages that you drafted and had

02:33:39 15 translated, starting with -- make sure I got the right page

02:33:49 16 here -- 67 Charlie.

02:33:58 17 MR. McBRIDE: Pardon me. Your Honor, may I publish

02:34:01 18 67 Charlie to the jury? It's been admitted.

02:34:04 19 THE COURT: It's been admitted, yes.

02:34:06 20 MR. McBRIDE: Thank you, Your Honor.

02:34:19 21 Paul, could we see page 4, please.

02:34:36 22 BY MR. McBRIDE:

02:34:36 23 Q. Would you look at the green bubble at the bottom of your

02:34:40 24 screen there? What was the purpose of this message, sir?

02:34:53 25 A. The response -- what was the response back to the Chen

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02:35:01 1 Feng message from a couple days previously, asking me if
02:35:07 2 either we or he had reached out to Qu Hui.

02:35:12 3 Q. What was the purpose of the last sentence which reads,
02:35:17 4 "Also, for the NUAA trip this time, is there any particular
02:35:21 5 material I need to prepare?"

02:35:27 6 A. It was simply a question.

02:35:29 7 Q. What was the purpose of that sentence, sir?

02:35:30 8 A. To see if NUAA wanted a follow-up presentation.

02:35:36 9 Q. Were you looking for a specific suggestion from NUAA as
02:35:40 10 to what they wanted?

02:35:41 11 A. Yes.

02:35:42 12 Q. Okay. Thank you.

02:35:51 13 MR. McBRIDE: Paul, if we'd go to 67 Charlie, page
02:35:56 14 9. If we can focus on the top half, please.

02:36:08 15 BY MR. McBRIDE:

02:36:09 16 Q. At this point, you are talking with Qu Hui, are you not?

02:36:17 17 A. Yes.

02:36:18 18 Q. What was the purpose of the top message?

02:36:29 19 A. It was response back to a message from the 9th
02:36:37 20 requesting information about the itinerary and then
02:36:44 21 chiding -- chiding us for not being more responsive on
02:36:48 22 WeChat. So we gave our apologies and then asked what
02:36:52 23 material may be needed for the exchange.

02:36:55 24 Q. Again, were you trying to get a specific suggestion from
02:36:58 25 Qu Hui?

02:36:59 1 A. Yes.

02:37:00 2 Q. Would you read Qu Hui's response at the bottom in the
02:37:04 3 white block there in the middle?

02:37:06 4 A. "Teacher, as for now, there's nothing you need to
02:37:10 5 prepare from my end."

02:37:13 6 Q. What did you do next?

02:37:17 7 A. Waited a couple days and responded.

02:37:23 8 BY MR. McBRIDE: Could we see the bottom image.

02:37:30 9 BY MR. McBRIDE:

02:37:30 10 Q. Would you read from "Right now" on.

02:37:35 11 A. "Right now, in my situation, it's convenient for me to
02:37:39 12 gather relevant information. It is also my desire to
02:37:42 13 maintain the good relationship between the Science and
02:37:44 14 Technology Association."

02:37:47 15 Q. What was the purpose of the phrase "it's convenient for
02:37:50 16 me to gather relevant information"?

02:37:53 17 A. Well, if Dr. Zheng was going to be flying to China and
02:37:57 18 he was going to give another presentation, he would need to
02:38:00 19 start collecting that now.

02:38:03 20 Q. Were you trying to show Qu Hui that it's easy for -- that
02:38:10 21 he can get information to -- that Dr. Zheng can get
02:38:13 22 information?

02:38:13 23 A. Yes.

02:38:14 24 Q. And that it would be easy to do for -- do so right now,
02:38:18 25 correct?

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02:38:18 1 A. Yes.

02:38:19 2 Q. That's kind of a bait for Qu Hui, isn't it?

02:38:25 3 A. It's an offer.

02:38:27 4 Q. Okay. That's fair.

02:38:34 5 MR. McBRIDE: Could we move, Paul, to page 10.

02:38:44 6 BY MR. McBRIDE:

02:38:45 7 Q. Would you look at the middle block, sir?

02:38:49 8 A. I'm sorry. Can you repeat that?

02:38:51 9 Q. Would you look at the green block in the middle, please?

02:38:54 10 A. It's the same message.

02:38:56 11 Q. My apologies.

02:38:57 12 BY MR. McBRIDE: Could we go to 11.

02:38:57 13 BY MR. McBRIDE:

02:39:06 14 Q. Would you look at the top box, please.

02:39:09 15 A. Yes.

02:39:09 16 Q. And you wrote that, of course?

02:39:11 17 A. I did.

02:39:14 18 Q. Would you read the first sentence of that block?

02:39:18 19 A. "Just recently I've heard the speculation about laying

02:39:22 20 off in my department."

02:39:23 21 Q. What was the purpose of making that state to Qu Hui?

02:39:27 22 A. It was something that had been reported pretty

02:39:30 23 frequently in the business and international press, that GE

02:39:33 24 was conducting pretty massive layoffs as part of the

02:39:36 25 restructuring. So we led with that piece of association in

02:39:41 1 there.

02:39:41 2 Q. Were you trying to get Qu Hui to ask for more specific

02:39:45 3 information?

02:39:46 4 A. Yes.

02:39:47 5 Q. And were you trying -- trying to show Qu Hui that you had

02:39:52 6 a motive now to collect information?

02:39:54 7 A. It was a statement about something that was

02:39:57 8 internationally known at that point.

02:39:59 9 Q. But losing your job could be a motive, could it not?

02:40:03 10 A. It could.

02:40:04 11 Q. And is that why you put that statement in there?

02:40:09 12 A. Again, it was context.

02:40:16 13 Q. It wasn't to sweeten the pot, so to speak?

02:40:19 14 A. Based on the interpretation of the receiver.

02:40:25 15 MR. McBRIDE: Could we turn to page 17.

02:40:38 16 BY MR. McBRIDE:

02:40:39 17 Q. All right. Now, correct me if I'm wrong. I believe at

02:40:42 18 this point in the communication a trip had been planned to

02:40:45 19 France; is that correct?

02:40:46 20 A. No, it's not.

02:40:51 21 Q. Where are we in this, the top communication? What's the

02:40:55 22 circumstance in your investigation right now?

02:40:58 23 A. We were indicating that the doctor would be unable to

02:41:01 24 travel to China.

02:41:03 25 Q. Why did you make that representation?

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02:41:06 1 A. Why?

02:41:07 2 Q. Um-hmm.

02:41:08 3 A. Because we weren't going to send him to China.

02:41:11 4 Q. So I think you told us earlier that you didn't want to

02:41:14 5 take Dr. Zheng originally, correct? With you to China?

02:41:20 6 A. Well, we were never going to go to China.

02:41:23 7 Q. Apologies. To Belgium.

02:41:24 8 A. No. Dr. Zheng had already -- we had planned on taking

02:41:27 9 him to Belgium.

02:41:28 10 Q. So the plan was Dr. Zheng would never go to China for the

02:41:31 11 NUAA exchange?

02:41:33 12 A. Yes.

02:41:33 13 Q. Okay. All right. Could we look at --

02:41:52 14 MR. McBRIDE: Your Honor, may I publish Exhibit 68?

02:41:55 15 THE COURT: It's been admitted?

02:41:57 16 MR. McBRIDE: It has, Your Honor.

02:41:58 17 THE COURT: Yes, you may.

02:42:05 18 BY MR. McBRIDE:

02:42:05 19 Q. Sir, can you see Exhibit 68? I'll wait till you get to

02:42:09 20 it.

02:42:28 21 BY MR. McBRIDE: And then could we look at page 3.

02:42:28 22 BY MR. McBRIDE:

02:42:45 23 Q. Now, you testified before that this was sent to Qu Hui,

02:42:50 24 correct, sir?

02:42:51 25 A. Yes.

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02:42:52 1 Q. And you also testified, I believe, that the GE9X is one
02:42:57 2 of General Electric's more advanced jet engines, correct?

02:43:02 3 A. Yes.

02:43:03 4 Q. It has the composite components that we've been talking
02:43:08 5 about, correct?

02:43:08 6 A. It does.

02:43:08 7 Q. And this, of course, was cleared by GE, correct?

02:43:10 8 A. Yes.

02:43:11 9 Q. All right. So what was the purpose in sending this to Qu
02:43:16 10 Hui?

02:43:16 11 A. He had been asking about system design, and we were
02:43:19 12 uncertain as to what that term really meant.

02:43:22 13 Q. So what was the purpose in sending this to him?

02:43:24 14 A. To see if he would indicate if this was the type of
02:43:27 15 information that he was referring to or if it was something
02:43:30 16 different.

02:43:31 17 Q. Just out of curiosity, would you look down at the bottom
02:43:36 18 and then left where it says "LS-Dyno" -- "Dyna FBO,
02:43:42 19 calculations and optimization"?

02:43:46 20 A. Yes.

02:43:46 21 Q. Do you know what that means?

02:43:47 22 A. It's a testing program.

02:43:49 23 Q. Computer -- computer program?

02:43:50 24 A. Yes.

02:43:52 25 Q. Thank you.

02:43:59 1 As I recall, you never got a response whether or not Qu
02:44:01 2 Hui was interested in this document, correct?

02:44:03 3 A. I think he said he wanted to talk about it when we met
02:44:08 4 in person.

02:44:08 5 Q. Okay. And then the next item that you sent to Qu Hui is
02:44:16 6 the computer directory, correct?

02:44:19 7 A. Yes, at his request.

02:44:25 8 Q. The computer directory was put together by General
02:44:29 9 Electric, correct?

02:44:29 10 A. It was.

02:44:30 11 Q. And cleared by General Electric, correct?

02:44:33 12 A. It was.

02:44:34 13 Q. And provided to the FBI to send to Qu Hui, correct?

02:44:37 14 A. Yes.

02:44:46 15 MR. McBRIDE: That's all for that, Paul.

02:45:18 16 Bear with me for a minute, will you? I am going to get
02:45:33 17 to a certain spot.

02:45:34 18 May I have a moment, Your Honor?

02:45:36 19 THE COURT: Yes.

02:45:36 20 (Pause.)

02:45:43 21 BY MR. McBRIDE: Your Honor, may we publish
02:45:46 22 Government 31 Bravo, which has been admitted into evidence?

02:45:50 23 THE COURT: Yes.

02:45:52 24 MR. McBRIDE: Thank you, Your Honor.

02:46:30 25 BY MR. McBRIDE:

02:46:30 1 Q. You ready, sir? All right.

02:46:32 2 This is the transcript of the meeting between Qu Hui --
02:46:37 3 or pardon me -- Xu and Zeng, correct? Not Dr. Zheng, but
02:46:46 4 Zhang, Z-E-N-G [sic]; is that correct?

02:46:48 5 A. Yes.

02:46:49 6 BY MR. McBRIDE: Would you be kind enough to turn to
02:46:50 7 page 4?

02:46:48 8 BY MR. McBRIDE:

02:46:48 9 Q. All right. Would you read about -- it's a little over
02:47:09 10 half the way page down where it says, "Zhang: Then it will
02:47:14 11 do"? Do you see that, sir?

02:47:21 12 A. I might need a moment.

02:47:29 13 Okay.

02:47:39 14 Q. Would you agree that this conversation is generally a
02:47:42 15 tutoring session?

02:47:44 16 A. Yes.

02:47:45 17 Q. Would you then read, again, sir, where Zhang says, "Then
02:47:52 18 it will do"?

02:47:53 19 A. "Then it will do all three of us in."

02:48:01 20 Q. Could you read the next sentence, please?

02:48:03 21 A. "To be honest in private, this is simply copyright
02:48:06 22 violations, right?"

02:48:09 23 Q. Do you know what they're talking about there?

02:48:12 24 A. I believe they are talking about the defendant taking
02:48:21 25 some exam prior to that.

02:48:36 1 Yeah, they are talking about the defendant taking an
02:48:39 2 exam.

02:48:39 3 Q. So would it be fair to say these copyright violations
02:48:43 4 don't involve any kind of technology?

02:48:45 5 A. Based on the context, I couldn't say.

02:48:48 6 Q. Thank you. You couldn't say?

02:48:49 7 A. Well, I mean, they are talking about an exam.

02:48:54 8 BY MR. McBRIDE: Okay. Could we turn to the same
02:48:58 9 exhibit, page 13, please.

02:49:14 10 Actually, Paul, can we see the bottom?

02:49:18 11 BY MR. McBRIDE:

02:49:18 12 Q. Would you read the last sentence where Xu says, starting
02:49:24 13 with "That's why"?

02:49:25 14 A. "That's why the Central Discipline Investigation
02:49:28 15 Commission usually comes to us when they have
02:49:30 16 investigations."

02:49:31 17 Q. Do you know what the Central Discipline Inspection
02:49:33 18 Commission is?

02:49:34 19 A. To the best of my knowledge, it's part of the PCB.

02:49:38 20 Q. And Central Discipline, do you know what that means more
02:49:42 21 specifically, other than being part of the PCB?

02:49:45 22 A. People who violate party principles.

02:49:50 23 Q. And that commission is involved in investigating or
02:49:54 24 inspecting those; is that fair?

02:49:55 25 A. To my understanding.

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02:49:57 1 Q. Okay.

02:50:02 2 MR. McBRIDE: Paul, will you take that one down.

02:50:09 3 Your Honor, may we publish Government Exhibit 41b, which
02:50:14 4 has been admitted?

02:50:16 5 THE COURT: Yes.

02:51:00 6 BY MR. McBRIDE:

02:51:00 7 Q. You ready, sir? I'm sorry. You ready?

02:51:03 8 A. I am.

02:51:04 9 Q. I'd like you to look at the very top sentence. Do you
02:51:08 10 see where it says, "The analytical tools for Boeing strength
02:51:13 11 engineers such as Famoss, Boeing design manuals such as Book 2
02:51:21 12 or 3"? Do you see that, sir?

02:51:22 13 A. I do.

02:51:22 14 Q. Do you know what the Boeing design manual is?

02:51:25 15 A. I have a general understanding of what it is.

02:51:28 16 Q. What's your general understanding?

02:51:30 17 A. It's the method that Boeing uses to design components
02:51:34 18 to their aircraft.

02:51:35 19 Q. Did you know you could get that Boeing design manual on
02:51:38 20 the Internet?

02:51:38 21 A. I don't know which version that is, but it could be
02:51:41 22 possible.

02:51:43 23 BY MR. McBRIDE: Okay. Could we go to page 2,
02:51:45 24 please.

02:51:45 25 BY MR. McBRIDE:

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02:52:04 1 Q. Sir, do you see just below the black line in that
02:52:08 2 exhibit?

02:52:09 3 A. I do.

02:52:09 4 Q. All right. And do you see where there is the reference
02:52:14 5 to the U.S. aerial refueling aircraft KC-135?

02:52:22 6 A. I do.

02:52:23 7 Q. Do you know what the KC-135 is?

02:52:25 8 A. Yes.

02:52:26 9 Q. What is it?

02:52:27 10 A. It's a U.S. military refueling aircraft.

02:52:30 11 Q. In the air refueling, correct, sir?

02:52:33 12 A. Yes.

02:52:33 13 Q. Do you know it's a 60-year-old plane, sir?

02:52:37 14 A. It's still in service.

02:52:39 15 Q. And do you know it's just about to be phased out of
02:52:41 16 service?

02:52:42 17 A. I do not.

02:52:43 18 Q. What if I told you it was? Would you believe me?
02:52:51 19 I'll take that as a "no," sir.

02:52:53 20 THE COURT: Is that a question?

02:52:56 21 MR. McBRIDE: Sir, I asked him if I told him that it
02:52:59 22 was about to be phased out of service would he believe me.

02:53:02 23 THE COURT: And I find that -- move along, please.

02:53:07 24 MR. McBRIDE: Yes, sir.

02:53:13 25 Your Honor, could we admit 41b, please.

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02:53:16 1 THE COURT: It's admitted, right?

02:53:19 2 MR. McBRIDE: I'm sorry. Could we move to page 4,

02:53:22 3 please. Sorry, Paul. Page 4 of the last exhibit, 41 Bravo.

02:53:59 4 BY MR. McBRIDE:

02:53:59 5 Q. Sir, are you on page 4?

02:54:00 6 A. I am.

02:54:01 7 Q. Would you look at the top of the document?

02:54:09 8 I believe you testified about that top block, that those

02:54:12 9 were codes, correct?

02:54:14 10 A. Yes.

02:54:15 11 Q. Do you know why they are encoded?

02:54:18 12 A. I do not.

02:54:19 13 Q. And these are text messages, are they not?

02:54:22 14 A. This is, yes.

02:54:23 15 Q. Do you know why they are texting what the codes mean?

02:54:29 16 A. I do not.

02:54:32 17 Q. And they are pretty simple codes, aren't they?

02:54:35 18 A. They are if you have the answer key.

02:54:40 19 Q. Well, don't they tell you what the answer key is?

02:54:43 20 A. They do.

02:54:44 21 Q. Okay.

02:54:50 22 MR. McBRIDE: Your Honor, may we admit Exhibit 42b,

02:54:54 23 which is already in evidence?

02:54:58 24 THE COURT: Yes.

02:55:14 25 BY MR. McBRIDE:

02:55:14 1 Q. Sir, do you have that document in front of you?

02:55:16 2 A. I do.

02:55:17 3 Q. Would you look at the top right block and read what is in
02:55:26 4 yellow there?

02:55:27 5 A. Do you mean in the first line?

02:55:30 6 Q. Yes, sir. The whole sentences.

02:55:34 7 A. "Hello Manager Xu. This is He Guangqing from Hunan
02:55:42 8 Tyen. I am at the high-speed rail station to pick you up.
02:55:44 9 When you exit, stay on the left. I will be at the left side
02:55:48 10 of the exit."

02:55:50 11 Q. Do you know what the Hunan Tyen Machinery Company does?

02:55:55 12 A. Beyond what you just described, very little.

02:56:01 13 Q. Did you know it's an automotive parts supplier then?

02:56:06 14 A. The machine company, they may make other parts, I don't
02:56:12 15 know.

02:56:12 16 Q. Did you know they are a division of China Changan
02:56:15 17 Mobile -- pardon me -- Automobile Group Limited?

02:56:18 18 A. I did not.

02:56:23 19 BY MR. McBRIDE: Could we go to the top of page 2,
02:56:27 20 Paul. Try to find the spot here.

02:56:27 21 BY MR. McBRIDE:

02:57:10 22 Q. Throughout your direct examination, there were a couple
02:57:12 23 of spots that refer to the Eighth Bureau. Do you remember
02:57:17 24 that, sir?

02:57:18 25 A. I do.

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02:57:18 1 Q. And essentially the phrases were something to the
02:57:22 2 effect -- correct me if I'm wrong -- the Eighth Bureau has
02:57:26 3 applied its techniques. Do you remember that, sir?

02:57:30 4 A. I believe it's the Eighth Division, but, yes.

02:57:33 5 Q. Thank you. Eighth Division, that's fine.

02:57:35 6 Do you know what the Eighth Division is?

02:57:37 7 A. I have a general understanding, yes.

02:57:38 8 Q. What's your general understanding?

02:57:40 9 A. It's their equivalent of our cyber.

02:57:48 10 Q. Counterespionage?

02:57:50 11 A. That could be a tool, yes.

02:58:07 12 MR. McBRIDE: Bear with me a moment, Your Honor,
02:58:09 13 please.

02:58:36 14 Your Honor, may we publish Government Exhibit 1a.

02:58:41 15 THE COURT: It's admitted, correct?

02:58:43 16 MR. McBRIDE: It is, Your Honor.

02:58:44 17 THE COURT: You may.

02:59:04 18 MR. McBRIDE: Would you blow it up just a little,
02:59:12 19 Paul.

02:59:14 20 BY MR. McBRIDE:

02:59:14 21 Q. Do you see it, sir?

02:59:15 22 A. I do.

02:59:16 23 Q. All right. These are photographs that were taken of the
02:59:21 24 items from Xu -- pardon me -- Xu Heng when he was arrested in
02:59:27 25 Belgium, correct?

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02:59:28 1 A. I believe that's accurate, yes.

02:59:29 2 Q. That's what it says on the top of the document, I

02:59:32 3 believe.

02:59:34 4 Xu Heng was released by the Belgians, wasn't he?

02:59:39 5 A. He was.

02:59:40 6 Q. So these items and -- the top two items, they are

02:59:44 7 pictures of backpacks, correct?

02:59:46 8 A. Yes.

02:59:47 9 Q. All right. On the right, there is a computer in one of

02:59:50 10 the backpacks, correct?

02:59:51 11 A. Yes.

02:59:52 12 Q. All right. Wouldn't you expect travelers to have

02:59:58 13 backpacks?

02:59:59 14 A. I do.

02:59:59 15 Q. And then let's move down to the next frame. These are

03:00:03 16 various devices, are they not, on the left and right that were

03:00:08 17 taken from Xu Heng and possibly Xu Quan -- pardon me -- Xu

03:00:17 18 Yanjun?

03:00:17 19 A. Yes.

03:00:17 20 Q. And then -- and you would expect travelers to have

03:00:21 21 electronic devices, would you not?

03:00:23 22 A. Some, yes.

03:00:25 23 Q. And then on the left we have some sort of storage device,

03:00:28 24 correct?

03:00:28 25 A. We do.

03:00:29 1 Q. And if you're traveling and taking a lot of pictures, you
03:00:34 2 might want to have a storage device, would you not?
03:00:36 3 A. If you were taking a lot of pictures, yes.
03:00:38 4 Q. And then on the right you've got some cords and
03:00:41 5 connectors, correct?
03:00:42 6 A. Yes.
03:00:42 7 Q. Not particularly unusual in and of themselves, are they?
03:00:46 8 A. By themselves, no.
03:00:48 9 Q. Let's move down to the very bottom.
03:00:55 10 And these are -- on the left is -- these are cards,
03:00:59 11 correct? Sim cards of some sort?
03:01:01 12 A. They are sim cards, yes.
03:01:03 13 Q. And the same thing on the right, correct?
03:01:05 14 A. Yes.
03:01:06 15 Q. And the sim cards are necessary for the cell phones,
03:01:10 16 correct?
03:01:10 17 A. Yes.
03:01:18 18 MR. McBRIDE: Your Honor, may we publish Exhibit 1b,
03:01:24 19 which is also in evidence?
03:01:26 20 THE COURT: Yes.
03:01:33 21 BY MR. McBRIDE:
03:01:33 22 Q. Do you have those in front of you, sir?
03:01:35 23 A. I do.
03:01:36 24 Q. And these are the plane tickets, correct?
03:01:38 25 A. They are.

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03:01:38 1 Q. And they were found on Xu Heng, correct?

03:01:42 2 A. They are -- or they were. Excuse me.

03:01:44 3 Q. Pardon me?

03:01:45 4 A. They were, yes.

03:01:46 5 Q. And on the left, we have Mr. Xu's ticket, correct?

03:01:51 6 A. Yes.

03:01:51 7 Q. And on the right, we have Mr. Heng's, correct?

03:01:55 8 A. Yes.

03:01:56 9 Q. All right. Nothing particularly odd about those plane

03:02:00 10 tickets, are there?

03:02:01 11 A. No.

03:02:02 12 Q. And is there anything particular odd about Mr. Heng

03:02:08 13 having them?

03:02:09 14 A. A plane ticket?

03:02:10 15 Q. Yes. Both plane tickets.

03:02:12 16 A. No.

03:02:16 17 MR. McBRIDE: Your Honor, may we publish Government

03:02:19 18 Exhibit 1c?

03:02:20 19 THE COURT: Yes, if it's been admitted.

03:02:23 20 MR. McBRIDE: It is, Your Honor. I apologize. It

03:02:27 21 is.

03:02:27 22 Can we focus on the top here.

03:02:30 23 BY MR. McBRIDE:

03:02:31 24 Q. Do you have that exhibit in front of you, sir?

03:02:33 25 A. I do.

03:02:34 1 Q. All right. I'd like to look at mostly the top left if we
03:02:39 2 could. I believe your testimony was that these gray
03:02:42 3 envelopes, there was money in them, correct?

03:02:44 4 A. Well, they are brown, and I believe the Belgian federal
03:02:50 5 police officer testified to that.

03:02:51 6 Q. Try and focus on my questions. I apologize for
03:02:55 7 misstating the color.

03:02:56 8 So the brown envelopes have money in them, correct?

03:03:00 9 A. They do.

03:03:01 10 Q. Some euros, correct?

03:03:03 11 A. Yes.

03:03:04 12 Q. There was some Chinese yen, correct?

03:03:06 13 A. I believe that was from the wallet, but, yes.

03:03:09 14 Q. And then there were some American dollars, correct?

03:03:11 15 A. 7,000 American dollars.

03:03:13 16 Q. What would you consider to be about the total value of
03:03:17 17 the money in the brown envelopes?

03:03:18 18 A. I believe the Belgian chief inspector testified it was
03:03:22 19 in the order of like 7,000 U.S. dollars and 7,000 euros.

03:03:29 20 Q. So together maybe 17-, \$18,000?

03:03:32 21 A. Yes.

03:03:34 22 Q. Correct me if I'm wrong, but you testified earlier today
03:03:38 23 that the GE information at issue here was worth billions of
03:03:44 24 dollars in development; is that right?

03:03:46 25 A. Yes.

HULL - CROSS (McBride)

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03:04:00 1 BY MR. McBRIDE: Could we pull out a little bit,
03:04:03 2 Paul? Pull the picture?
03:03:47 3 BY MR. McBRIDE:
03:03:47 4 Q. Look again, please, at the top left. Is that a passport
03:04:14 5 there?
03:04:15 6 A. It is.
03:04:15 7 Q. Whose passport is that, do you know?
03:04:18 8 A. I do not.
03:04:19 9 Q. But you found Mr. Xu's passport, correct?
03:04:23 10 A. The Belgians did, yes.
03:04:26 11 Q. The Belgians did. Well, thank you. And the Belgians
03:04:31 12 found that that passport was issued by China, correct?
03:04:35 13 A. Yes.
03:04:35 14 Q. And there is nothing unusual about that, is there?
03:04:37 15 A. No.
03:04:37 16 Q. And he had a visa, correct?
03:04:40 17 A. He did.
03:04:42 18 Q. And that visa allowed Mr. Xu to move around Europe; is
03:04:47 19 that correct?
03:04:47 20 A. That's what he provided to the French government.
03:04:51 21 Q. There is nothing inherently odd about that, is there, for
03:04:54 22 a traveller?
03:04:55 23 A. No.
03:05:02 24 MR. McBRIDE: Your Honor, could we publish Exhibit
03:05:05 25 6h, which has been admitted into evidence?

HULL - CROSS (McBride)

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03:05:21 1 THE COURT: Yes.

03:05:22 2 MR. McBRIDE: Could we turn the page to page 5.

03:05:39 3 BY MR. McBRIDE:

03:05:39 4 Q. Are you there, sir?

03:05:40 5 A. I am.

03:05:41 6 MR. McBRIDE: Could we blow it up a little bit,

03:05:44 7 Paul?

03:05:47 8 BY MR. McBRIDE:

03:05:47 9 Q. All right. Would you look at Number 25 and go across to

03:05:57 10 "From"? Do you see that, sir?

03:06:02 11 A. I do.

03:06:02 12 Q. And you see the WeChat handle there starting with wxid?

03:06:08 13 A. Yes, with the name Jerry.

03:06:11 14 Q. Do you know whose WeChat that is?

03:06:13 15 A. I believe it's your client's.

03:06:14 16 Q. All right. And look to the bottom where it says "To."

03:06:19 17 It's to lin772438, correct?

03:06:22 18 A. It is.

03:06:23 19 Q. Do you know who Lin is?

03:06:24 20 A. I believe that's your defendant's wife.

03:06:27 21 Q. Correct.

03:06:28 22 A. Your client's wife.

03:06:30 23 Q. And would you read what's highlighted in yellow to the

03:06:33 24 right, please?

03:06:33 25 A. "What if they don't have this brand?"

HULL - CROSS (McBride)

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03:06:36 1 Q. And then would you read what's highlighted in yellow one
03:06:43 2 step below?
03:06:43 3 A. "If they don't have it, then don't worry about it."
03:06:46 4 Q. And who is that message from?
03:06:49 5 A. The defendant's spouse.
03:06:53 6 Q. To the defendant, sir?
03:06:54 7 A. Yes.
03:06:55 8 Q. All right. And then would you read what's highlighted in
03:07:00 9 yellow in block 27?
03:07:02 10 A. "There is none."
03:07:07 11 Q. What conclusion do you draw from that exchange?
03:07:14 12 A. Discussions between husband and wife about shopping.
03:07:20 13 Q. Thank you.
03:07:23 14 MR. McBRIDE: Can we see the next page, please.
03:07:34 15 BY MR. McBRIDE:
03:07:34 16 Q. Just to continue in this theme, the block above 30
03:07:38 17 doesn't have a number in it on this exhibit, but would you
03:07:41 18 read what's in red -- in yellow at the far right at the very
03:07:45 19 top?
03:07:45 20 A. "In that case, just buy three Lancome facial
03:07:49 21 moisturizing masks instead them -- then."
03:07:55 22 Q. Thank you, sir.
03:08:00 23 BY MR. McBRIDE: Could we go to page 19, please.
03:08:00 24 BY MR. McBRIDE:
03:08:20 25 Q. All right. Would you read message 110, please?

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03:08:24 1 A. "Send me some photos when you have time."

03:08:28 2 Q. And who is that from?

03:08:29 3 A. That appears to be from the defendant's spouse.

03:08:34 4 Q. And who is it to?

03:08:35 5 A. The defendant.

03:08:36 6 Q. What conclusion do you draw from that sentence?

03:08:40 7 MR. MANGAN: Objection.

03:08:41 8 THE COURT: Basis?

03:08:42 9 MR. MANGAN: Asking him to guess what the intent of

03:08:48 10 the statement was.

03:08:49 11 MR. McBRIDE: I'll rephrase, Your Honor.

03:08:50 12 THE COURT: Very well. He'll rephrase.

03:08:53 13 BY MR. McBRIDE:

03:08:53 14 Q. Do you appear -- does it appear to be that Mrs. Yanjun is

03:08:57 15 asking for some pictures of Mr. Xu's travels?

03:09:00 16 A. Yes.

03:09:02 17 Q. Thank you.

03:09:08 18 MR. McBRIDE: You can take that one down, Paul.

03:09:15 19 BY MR. McBRIDE:

03:09:15 20 Q. Sir, do you recall that a number of the email -- a number

03:09:18 21 of the exhibits that the jury viewed last week came from the

03:09:26 22 jastxyj Gmail account? Do you remember that, sir?

03:09:31 23 A. I do.

03:09:32 24 Q. And the jastquhui Gmail account, correct?

03:09:36 25 A. Yes.

03:09:36 1 Q. What was the date the Belgians arrested Mr. Xu?

03:09:53 2 A. April 1, 2018.

03:09:55 3 Q. And they placed his phone in a Faraday bag, did they not?

03:09:59 4 A. Not 100 percent on that, but they should have. Whether

03:10:03 5 they did or didn't, I don't know.

03:10:04 6 Q. If they placed it in a Faraday bag -- pardon me. Let me

03:10:10 7 start with this: What is a Faraday bag?

03:10:12 8 A. Faraday bag is a bag that we place electronic media in

03:10:16 9 so that it, in principle, should block a signal. In

03:10:23 10 practice, sometimes it doesn't. It depends on the quality

03:10:26 11 of the Faraday bag.

03:10:27 12 Q. Did you know that the jastxyj Gmail was accessed 55 times

03:10:33 13 after Mr. Xu's arrest?

03:10:34 14 A. Yes.

03:10:35 15 Q. And were you aware that the last one, last access was on

03:10:38 16 May 4, 2017?

03:10:42 17 A. That would be before the arrest.

03:10:44 18 Q. I'm sorry. June 4, 2017.

03:10:50 19 A. Okay.

03:10:51 20 Q. And then that the network locations it was accessed from

03:10:58 21 included the Jiangsu area and Berlin. Were you aware of that?

03:11:02 22 A. Sounds vaguely familiar, yes.

03:11:09 23 BY MR. McBRIDE: Could we publish, Your Honor,

03:11:12 24 Government Exhibit 64b? It has been admitted into evidence.

03:11:19 25 THE COURT: Yes.

HULL - CROSS (McBride)

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03:11:35 1 BY MR. McBRIDE:

03:11:35 2 Q. And, sir, we are going to go to page 14 while you are

03:11:38 3 looking. Page 14 while you are looking.

03:11:56 4 A. I don't have a page 14 in 64b.

03:12:01 5 Q. All right. My apologies.

03:12:03 6 Let's back up on that. I don't want to spend the jury's

03:12:07 7 time -- waste the jury's time on that.

03:12:11 8 MR. McBRIDE: Your Honor, could we publish

03:12:13 9 Government Exhibit 94b, which has been admitted?

03:12:17 10 THE COURT: Yes.

03:12:55 11 BY MR. McBRIDE:

03:12:55 12 Q. Are you there, sir?

03:12:56 13 A. I am.

03:12:57 14 Q. All right. Will you read the "From" line at the top.

03:13:01 15 A. From jastxyj@gmail.com.

03:13:06 16 Q. Will you read the "To" line at the bottom of the top

03:13:12 17 section there?

03:13:12 18 A. Xuyanjun1980@sohu.com.

03:13:19 19 Q. So this email appears to be from whoever is at

03:13:26 20 jastxyj@gmail.com, correct?

03:13:28 21 A. It's sent from that address.

03:13:29 22 Q. Pardon me?

03:13:30 23 A. It's sent from that address.

03:13:31 24 Q. All right. And then the greeting is to Liu Yong; is that

03:13:37 25 correct?

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03:13:37 1 A. Yes.

03:13:41 2 Q. And Liu Yong is apparently at xuyanjun1980, correct?

03:13:49 3 A. That's the name that's on that email.

03:13:55 4 Q. And that's the email that you identified our client
03:13:58 5 with -- my client with, correct?

03:14:00 6 A. Yes.

03:14:00 7 Q. All right. But apparently somebody else is using xyj --
03:14:08 8 jastxyj, correct?

03:14:10 9 A. Or your client is emailing an email to himself from
03:14:14 10 that account.

03:14:15 11 Q. So your testimony is he's emailing himself from that
03:14:19 12 account and greeting himself as Liu Yong; is that right?

03:14:23 13 A. It's possible.

03:14:24 14 Q. Okay.

03:14:28 15 THE COURT: Have we reached a pause point?

03:14:31 16 MR. McBRIDE: Yes, Your Honor. Perfect pause
03:14:33 17 actually.

03:14:33 18 THE COURT: Very well. We are going to take a
03:14:35 19 30-minute break. I have something I have to do unrelated, so
03:14:38 20 you get a full break. Don't discuss the case among yourselves
03:14:41 21 or with anyone else. No independent research. Continue to
03:14:45 22 keep an open mind.

03:14:46 23 We will stand as you leave until a quarter of 4.

03:14:49 24 THE COURTROOM DEPUTY: All rise for the jury.

03:14:51 25 (Jury out at 3:14 p.m.)

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03:15:35 1 THE COURT: The jury's left the room. The door is
03:15:37 2 closed. I'm sorry. I have to break until a quarter of 4.
03:15:45 3 How are you coming?
03:15:46 4 MR. McBRIDE: I am going to try to get through
03:15:48 5 today, Your Honor.
03:15:48 6 THE COURT: Very well. We will recess until a
03:15:50 7 quarter of 4.
03:15:53 8 THE COURTROOM DEPUTY: This court is in recess until
03:15:56 9 a quarter of 4.
03:15:58 10 (Recess from 3:16 p.m. until is 3:46 p.m.)
03:46:37 11 THE COURT: Are we ready for the jury from the
03:46:40 12 government's perspective?
03:46:42 13 MR. MANGAN: Yes, Your Honor.
03:46:43 14 THE COURT: From the defense as well?
03:46:47 15 MR. McBRIDE: Yes, Your Honor.
03:46:49 16 THE COURT: Let's call for the jury, please.
03:47:31 17 THE COURTROOM DEPUTY: All rise for the jury.
03:47:33 18 (Jury in at 3:47 p.m.)
03:48:03 19 THE COURT: Please be seated. The 15 jurors have
03:48:09 20 rejoined us. We will continue to hear testimony.
03:48:14 21 Mr. McBride, you may proceed.
03:48:19 22 MR. McBRIDE: Thank you, Your Honor.
03:48:22 23 THE COURT: Very well.
03:48:33 24 MR. McBRIDE: Can I have a moment, Your Honor, to
03:48:35 25 find my spot?

HULL - CROSS (McBride)

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03:48:36 1 (Pause.)

03:48:55 2 BY MR. McBRIDE:

03:48:56 3 Q. Agent Hull, we were talking about the email jastxyj. Do

03:49:06 4 you recall that?

03:49:06 5 A. I do.

03:49:07 6 Q. All right. And I believe we ended with -- I am not

03:49:12 7 asking to pull it up -- Government Exhibit 94b. Do you recall

03:49:17 8 that?

03:49:17 9 A. I do.

03:49:17 10 Q. All right. So you are aware, are you not, that the

03:49:20 11 United States has admitted that there may be others accessing

03:49:30 12 the jastxyj account, correct?

03:49:33 13 A. Among other explanations, yes.

03:49:36 14 Q. Yes. All right. Let's look at the jastquhui account.

03:49:42 15 Are you aware that it was accessed 56 times after Mr. Xu was

03:49:46 16 arrested?

03:49:46 17 A. Ballpark, yes.

03:49:48 18 Q. Ballpark. 56 is a fair number?

03:49:55 19 A. It is.

03:49:55 20 Q. And are you aware that it was accessed from locations of

03:49:59 21 Jiangsu, Berlin, and Paris? Does that sound about right?

03:50:02 22 A. About right, yep.

03:50:05 23 Q. And you are also aware that the government has admitted

03:50:09 24 that this may indicate there may be other individuals

03:50:12 25 accessing this email account, correct?

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03:50:16 1 A. Among other explanations, yes.

03:50:18 2 Q. But possibly other people are accessing it, correct?

03:50:23 3 A. Yes.

03:50:23 4 Q. Okay. I'm curious, Agent, did you do any studying about

03:50:42 5 MSS itself?

03:50:44 6 A. Specific to this case?

03:50:45 7 Q. Yes.

03:50:46 8 A. Some.

03:50:51 9 Q. Do you know what the bureaus are?

03:50:55 10 A. Not off the top of my head I do not.

03:50:58 11 Q. So you couldn't list them off for us?

03:51:00 12 A. I could not.

03:51:00 13 Q. Okay. That's fair enough. I am certainly not going to

03:51:03 14 ask you to do that.

03:51:07 15 I am going to ask you about a few of the items that were

03:51:10 16 found when Mr. Xu and Mr. Heng were arrested.

03:51:10 17 A. Okay.

03:51:14 18 Q. I am not going to pull most of them up, just to save

03:51:19 19 time.

03:51:19 20 I think you testified -- and correct me if I'm wrong --

03:51:22 21 that Mr. Xu had a Chinese identification card on him, correct?

03:51:27 22 A. Yes.

03:51:27 23 Q. And are you aware that every Chinese citizen has one of

03:51:30 24 those documents assigned to them?

03:51:33 25 A. Yes.

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03:51:33 1 Q. And that it has a unique number on that document for that
03:51:38 2 individual, correct?

03:51:39 3 A. Yes.

03:51:40 4 Q. All right. And that number is assigned by the Chinese
03:51:44 5 communist party, correct?

03:51:45 6 A. Yes.

03:51:48 7 Q. And Xu was in possession of his own identification card
03:51:54 8 from the Chinese government, correct?

03:51:55 9 A. Yes.

03:51:57 10 Q. He wasn't traveling under an alias, correct?

03:52:02 11 A. An alias name, no.

03:52:15 12 MR. McBRIDE: Your Honor, may we publish Government
03:52:19 13 Exhibit 28 which has been admitted?

03:52:21 14 THE COURT: Yes.

03:52:44 15 BY MR. McBRIDE:

03:52:45 16 Q. Sir, could you turn to page 2, please? Actually, let's
03:52:49 17 leave it there on page 1. Would you look at the bottom right
03:52:52 18 and describe what you see, that red marking?

03:52:55 19 A. You mean the seal?

03:53:00 20 Q. Do you know anything about official documents in China?

03:53:04 21 A. They usually have a red seal.

03:53:07 22 Q. And every organization has its own seal, correct?

03:53:11 23 A. Every government or government-related organization
03:53:14 24 does, to the best of my knowledge, yes.

03:53:16 25 Q. Some business organizations also?

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03:53:17 1 A. They may.

03:53:18 2 Q. And so that indicates to you, does it not, that that's an
03:53:21 3 official document?

03:53:22 4 A. Yes.

03:53:23 5 BY MR. McBRIDE: All right. Could we turn to page
03:53:26 6 2.

03:53:26 7 BY MR. McBRIDE:

03:53:28 8 Q. This is the same document, sir, and I believe you
03:53:31 9 testified that this is Mr. Xu's admission to NUAA; is that
03:53:39 10 correct, your -- correct, sir?

03:53:40 11 A. Yes.

03:53:41 12 Q. And that would be a legitimate document, correct?

03:53:45 13 A. Based on this, it is.

03:53:46 14 Q. All right. Thank you.

03:53:55 15 I would like to talk a little bit about the techniques
03:54:02 16 you used in this investigation, briefly.

03:54:14 17 So we've heard already that you executed a search warrant
03:54:18 18 at Mr. -- at Dr. Zheng's house, correct? And you executed one
03:54:23 19 at his phones and his car, correct?

03:54:25 20 A. Yes.

03:54:25 21 Q. All right. In general, what kind of information did you
03:54:31 22 retrieve from that search warrant?

03:54:33 23 A. We had computers that we reviewed; we had the phone,
03:54:39 24 which we reviewed; and we had a few other electronic devices
03:54:43 25 which we seized, some of which we reviewed, some of which we

03:54:48 1 did not; and the business card from the defendant.

03:54:50 2 Q. So you obtained a lot of emails, correct?

03:54:53 3 A. Yes.

03:54:53 4 Q. And those emails, some of them were between -- and these
03:54:58 5 were the ones you were looking for -- Dr. Zheng and Chen Feng,
03:55:01 6 correct?

03:55:02 7 A. The person using the jeremy@nuaa.edu.cn email.

03:55:10 8 Q. Very well. And from that email search, from those
03:55:13 9 emails, you got -- you identified other emails of interest to
03:55:16 10 you, correct?

03:55:16 11 A. Yes.

03:55:17 12 Q. All right. And then you did what?

03:55:20 13 A. We sought additional search warrants for those other
03:55:24 14 emails of interest.

03:55:25 15 Q. Okay. And who did you send those search warrants to?

03:55:32 16 A. Google. We did one more for Hotmail.

03:55:36 17 Q. So all those -- Google keeps its information on servers
03:55:40 18 in the United States, correct?

03:55:41 19 A. It does.

03:55:43 20 Q. And so because of that, you were able to issue a search
03:55:49 21 warrant for those emails, correct?

03:55:51 22 A. Yes.

03:55:52 23 Q. And with the legal process of a search warrant, you were
03:55:57 24 able to get the content of the emails, correct?

03:55:59 25 A. Yes.

03:56:00 1 Q. And some of what you received is what's been entered into
03:56:03 2 evidence in this course, correct?

03:56:05 3 A. It is.

03:56:08 4 Q. This course -- pardon me. This case.

03:56:15 5 And you, of course, analyzed the contents of the emails
03:56:21 6 that you received, correct?

03:56:22 7 A. I read them, yes.

03:56:24 8 Q. All right. Were you able to put them in some kind of
03:56:28 9 cohesive story, if you will?

03:56:31 10 A. I believe so, yes.

03:56:33 11 Q. All right. And, of course, when you -- when the Belgians
03:56:41 12 arrested Mr. Xu, they seized his cell phone, correct?

03:56:46 13 A. Yes.

03:56:47 14 Q. And you, properly so, got a legal search warrant to
03:56:53 15 search his cell phone, correct?

03:56:55 16 A. After we had him in our custody, yes.

03:56:58 17 Q. And that's where you got the text messages and -- that's
03:57:00 18 where you got the text messages, right?

03:57:03 19 A. In addition to the iPhone backup, yes.

03:57:06 20 Q. Okay. And were you able to get other items, then, out of
03:57:10 21 the iCloud?

03:57:10 22 A. Yes.

03:57:11 23 Q. And that iCloud is stored on servers also in the United
03:57:14 24 States, correct?

03:57:14 25 A. Yes.

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03:57:20 1 Q. So your contention is that Mr. Xu is an intelligence
03:57:38 2 officer from MSS; is that correct?

03:57:40 3 A. It's not my contention. We've reviewed his resume
03:57:45 4 working for the MSS.

03:57:48 5 Q. Okay. That's a document no one has ever seen before,
03:57:52 6 correct?

03:57:53 7 A. No one in the United States intelligence community, no.

03:57:56 8 Q. All right. And it didn't have a seal on it, did it?

03:57:59 9 A. The pages we recovered did not.

03:58:01 10 Q. All right. So you are also in the counterespionage
03:58:09 11 business, correct?

03:58:10 12 A. I am in the counterintelligence --

03:58:10 13 Q. Pardon me --

03:58:12 14 A. -- section of the FBI.

03:58:13 15 Q. -- counterintelligence. Excuse me.

03:58:15 16 Do you think it's good tradecraft to communicate over
03:58:18 17 email that could be recovered from a server in California?

03:58:23 18 MR. MANGAN: Objection. Relevance.

03:58:27 19 THE COURT: It's irrelevant.

03:58:29 20 MR. McBRIDE: I'll rephrase the question, Your
03:58:31 21 Honor.

03:58:31 22 THE COURT: Very well.

03:58:34 23 BY MR. McBRIDE:

03:58:37 24 Q. The emails that you obtained weren't in a kind of code,
03:58:44 25 were they?

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03:58:44 1 A. How do you mean?

03:58:46 2 Q. Well, the emails themselves didn't have any code to its

03:58:50 3 content, did it?

03:58:53 4 A. There were messages back and forth that discussed using

03:58:57 5 codes.

03:58:57 6 Q. I understand, but the messages themselves weren't coded

03:59:00 7 in any way, were they?

03:59:01 8 A. No. The emails --

03:59:01 9 Q. And you were able to -- I apologize. What were you going

03:59:04 10 to say?

03:59:05 11 A. The emails were not.

03:59:06 12 Q. And you were able to evaluate those emails without any

03:59:09 13 problem once they were translated, correct?

03:59:11 14 A. Yes.

03:59:12 15 Q. All right. The same thing with the cell phones. There

03:59:17 16 were things saved on the cell phones, correct?

03:59:19 17 A. Yes.

03:59:20 18 Q. All right. Including the audio -- the audio recordings

03:59:26 19 that we have talked about at this trial, correct?

03:59:28 20 A. Yes.

03:59:29 21 Q. All right. And they weren't somehow encrypted, were

03:59:33 22 they?

03:59:33 23 A. I mean, the device was password locked and protected.

03:59:38 24 Q. No. I mean the communications themselves, they weren't

03:59:41 25 encrypted somehow or encoded, were they?

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03:59:46 1 A. Which communications specifically?

03:59:46 2 Q. The verbal communications.

03:59:48 3 A. No.

03:59:48 4 Q. They were not in code of any kind, were they?

03:59:50 5 A. They were not.

03:59:51 6 Q. And once again, Mr. Xu traveled to Belgium under his own

03:59:59 7 name, correct?

04:00:00 8 A. He did.

04:00:01 9 Q. We saw in his materials that he had a credit card,

04:00:15 10 correct?

04:00:15 11 A. Yes.

04:00:15 12 Q. Nothing unusual about that, is there?

04:00:18 13 A. No.

04:00:23 14 MR. McBRIDE: Can I have a moment, Your Honor?

04:00:25 15 THE COURT: Yes.

04:00:29 16 (Pause.)

04:00:44 17 MR. McBRIDE: Your Honor, I believe I am done with

04:00:47 18 this witness.

04:00:47 19 THE COURT: Very well. Thank you.

04:00:49 20 MR. McBRIDE: Thank you, Your Honor.

04:00:52 21 MR. MANGAN: Can we have one moment, Your Honor?

04:00:54 22 THE COURT: Yes.

04:00:54 23 (Pause.)

04:01:40 24 THE COURT: Redirect?

04:01:41 25 MR. MANGAN: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. MANGAN:

Q. Good afternoon, Agent Hull.

A. Hello.

Q. I just wanted to ask you a little bit about the question related to the email accounts that the defense was asking you about, okay? And specifically they were asking you about the two email accounts being accessed after the date of the arrest, correct? Do you remember that?

A. I do.

Q. All right. And was that based on information related to IP addresses?

A. Yes, it was.

Q. Okay. And this didn't pertain to the cloud, correct?

A. It did not.

Q. All right. Or anything on the physical phones?

A. No.

Q. So with respect to those -- that time period for those two accounts, are you aware of other possible explanations for the continued IP hits?

A. I am.

Q. And could you explain that to the jury?

A. China has something that we refer to as the Great Firewall of China, which means that they have near complete control over the transfer data in and out of China. So in

04:02:54 1 order to utilize Google or Gmail, as an example, I believe
04:03:00 2 it was about 2016 it became impossible, courtesy of the
04:03:04 3 control behind the Great Firewall of China, to access Google
04:03:08 4 directly by an ISP in China. So you are required to use a
04:03:12 5 VPN or to tunnel out somehow outside of China to do that.
04:03:16 6 So that's one possible explanation, the use of a virtual
04:03:20 7 private network.

04:03:22 8 **Q.** And then let me ask you this: If the defendant had
04:03:29 9 access to that email account but had also inputted that on
04:03:34 10 other devices, let's say a laptop at home, is it possible that
04:03:38 11 someone could open his laptop at home after his arrest and try
04:03:43 12 to access the account?

04:03:44 13 **A.** Yes. Any -- any device that would have had log-in
04:03:48 14 access to that device. Like, let's say you had an iPad and
04:03:52 15 one of your kids opened the iPad. Whether you actually
04:03:55 16 accessed the emails or not, the iPad is still going to reach
04:03:59 17 out to Google, to the server, and that's going to leave a
04:04:03 18 forensic trace behind in the IP logs, even though nothing
04:04:07 19 was accessed or no content was seen. It's a function of the
04:04:11 20 system.

04:04:14 21 **Q.** And then after the arrest, you mentioned that, I believe
04:04:16 22 in your earlier testimony, that that one of the phones was
04:04:19 23 wiped; is that correct?

04:04:21 24 **A.** Yes.

04:04:23 25 **Q.** Is it also possible that other associates of the

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04:04:30 1 defendant attempted to reach out and somehow access his email
04:04:33 2 accounts?

04:04:34 3 A. Yes.

04:04:34 4 Q. I also want to ask you a little bit about the discussions
04:04:42 5 you had with the GE employee, Dr. Zheng.

04:04:48 6 You were asked a little bit about the interview. Did the
04:04:50 7 FBI make sure that the employee was able to get home safely?

04:04:55 8 A. Yeah, I drove him home myself.

04:04:58 9 Q. And --

04:04:59 10 A. We also fed him. We had pizza.

04:05:02 11 Q. Okay. And then since that time, have you continued --
04:05:05 12 have you been able to speak with him on multiple occasions?

04:05:08 13 A. Many, many occasions.

04:05:11 14 Q. All right. And during the course of that period of
04:05:16 15 cooperation, have you had a -- how would you characterize the
04:05:21 16 relationship?

04:05:22 17 A. A positive one. We work well together.

04:05:24 18 Q. All right. And during that time, did you also have to
04:05:27 19 take measures to ensure his safety?

04:05:29 20 A. Yes.

04:05:30 21 Q. And were you personally involved in those?

04:05:32 22 A. I was.

04:05:33 23 Q. And has that been a continuing concern?

04:05:35 24 A. Yes.

04:05:37 25 MR. McBRIDE: Objection, Your Honor. Beyond the

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04:05:39 1 scope.

04:05:39 2 THE COURT: Overruled.

04:05:42 3 BY MR. MANGAN:

04:05:42 4 Q. Let me bring it back to the photos that were found on the
04:05:47 5 phone and the exhibit you were asked about at the beginning of
04:05:50 6 the day. Do you recall that?

04:05:51 7 A. I do.

04:05:51 8 Q. The photos there, is that -- that were in that exhibit,
04:05:58 9 is that all of the photos or a sample?

04:06:00 10 A. It's a very small sample of more than 200 photos.

04:06:04 11 Q. And was that selected simply to be representative of the
04:06:07 12 types of photos?

04:06:07 13 A. Yes. We didn't -- we tried to not bias it.

04:06:12 14 Q. And did you try to not put anymore family photos in the
04:06:17 15 exhibit than necessary to make the point?

04:06:19 16 A. No. There were a lot more, particularly of his family,
04:06:22 17 that we chose to not include.

04:06:26 18 MR. MANGAN: If I could have one moment, Your Honor?

04:06:30 19 THE COURT: Yes.

04:06:31 20 (Pause.)

04:06:41 21 MR. MANGAN: That's all I have, Your Honor.

04:06:42 22 THE COURT: Very well.

04:06:46 23 Is there any recross on redirect?

04:06:50 24 MR. McBRIDE: Very short, Your Honor.

04:06:52 25 THE COURT: Very well.

RE CROSS-EXAMINATION

BY MR. McBRIDE:

Q. Mr. Mangan asked you some questions about the email addresses, correct? That we were talking about, that you were asked, the JAST emails.

One of the explanations that you provided was that there could be access by a VPN, virtual private network. Do you recall that?

A. I do.

Q. There was no evidence of a VPN, was there?

A. You can't tell that from an IP log.

Q. So you don't know whether or not there was a VPN, correct?

A. I do not know that, but I do know that they can't access Gmail within China without something like that.

Q. So you don't know whether that was -- whether the machines were being accessed that way, correct?

A. I do not. But, again, you can't tell that from IP log-in data.

Q. Mr. Mangan asked you about another device that's connected to it; is that correct? Do you remember that?

A. Yes.

Q. All right. But you also remember testifying that some of the accesses were from Berlin. Do you remember that?

A. Yes.

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04:08:01 1 Q. And they were close in time to time somebody tried to
04:08:08 2 access these accounts from Jiangsu, correct?

04:08:12 3 A. Yes.

04:08:12 4 Q. All right. And, lastly, I think you also testified that
04:08:26 5 some of Mr. Xu's colleagues could have been reaching out in
04:08:29 6 this address, correct?

04:08:30 7 A. It's possible, yes.

04:08:32 8 Q. And you would say it's just as possible as the other
04:08:35 9 alternatives you offer, correct?

04:08:37 10 A. I'd say they are all possible.

04:08:42 11 Q. Thank you.

04:08:43 12 MR. McBRIDE: Your Honor, I have no more questions.

04:08:45 13 THE COURT: Very well.

04:08:47 14 Sir, you may step down.

04:08:56 15 I'm inclined to recess for the day. Is the government
04:08:59 16 accepting of that?

04:09:00 17 MR. MANGAN: Yes, Your Honor. Thank you.

04:09:01 18 THE COURT: The defense?

04:09:02 19 MR. McBRIDE: Yes, Your Honor.

04:09:03 20 THE COURT: Very well. You have had a good full
04:09:07 21 day. This witness is now off the stand. Tonight when you go
04:09:10 22 home I want you to take a break, not discuss it with your
04:09:13 23 family, loved ones, or anyone, including yourselves. No
04:09:18 24 independent research. Continue to keep an open mind as you
04:09:22 25 promised you would.

04:09:25 1 I need you back tomorrow by 9:15 in the odd event that we
04:09:30 2 are ready for you at 9:30.

04:09:32 3 Out of respect for you, we will rise as you leave.

04:09:35 4 THE COURTROOM DEPUTY: All rise for the jury.

04:09:37 5 (Jury out at 4:09 p.m.)

04:10:15 6 THE COURT: The jury's left the room. The door is
04:10:21 7 closed. Is there anything that requires the Court's attention
04:10:24 8 before we adjourn for the evening, from the government?

04:10:27 9 MR. MANGAN: No, Your Honor.

04:10:28 10 THE COURT: From the defense?

04:10:31 11 MR. McBRIDE: Nothing, Your Honor. Thank you.

04:10:33 12 THE COURT: The government has told the defense its
04:10:35 13 next witnesses?

04:10:36 14 MR. MANGAN: We have told them generally. We are
04:10:38 15 going to caucus for a moment to give them the order if that's
04:10:41 16 all right. But we will make sure we talk it through before we
04:10:46 17 leave today.

04:10:46 18 THE COURT: Very well. Enjoy the evening. The
04:10:50 19 court's in recess.

04:10:52 20 THE COURTROOM DEPUTY: This court is now in recess.

04:10:54 21 (Proceedings adjourned at 4:10 p.m.)

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3 I, Mary A. Schweinhagen, Federal Official Realtime
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14 _____ 20th of January, 2022

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